

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Douglas A. Kelley, in his) File No. 19-cv-1756
capacity as the Trustee of the) (WMW)
BMO Litigation Trust,)
Plaintiff,) St. Paul, Minnesota
vs.) October 17, 2022
BMO Harris Bank N.A., as) 8:31 a.m.
successor to M&I Marshall and)
Ilsley Bank,)
Defendant.)

BEFORE THE HONORABLE WILHELMINA M. WRIGHT
UNITED STATES DISTRICT COURT JUDGE

* * * REDACTED TRANSCRIPT * * *

(JURY TRIAL PROCEEDINGS - VOLUME IV)

Proceedings reported by certified court reporter;
transcript produced with computer.

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P R O C E E D I N G S

IN OPEN COURT

(JURY PRESENT)

THE CLERK: The case before the Court is
19-cv-1756, Kelley vs. BMO Harris.

Counsel, please stand and note your appearances
for the record.

THE COURT: You may be seated, Members of the
Jury.

MR. COLLYARD: Good morning, Your Honor. Mike
Collyard on behalf of the plaintiff.

THE COURT: Good morning.

MS. MOMOH: Good morning, Your Honor. Adine Momoh
on behalf of the defendant, BMO Harris Bank.

THE COURT: Thank you. Good morning, Ms. Momoh.

MS. MOMOH: Good morning.

THE COURT: Counsel, are we ready to proceed?

MS. MOMOH: Yes, Your Honor.

THE COURT: Good morning.

THE WITNESS: Good morning.

THE COURT: You may take your seat. I will simply
remind you that you remain under oath.

Pesch - Direct

(Mary Pesch)

DIRECT EXAMINATION (Continued)

BY MS. MOMOH:

Q. Good morning, Ms. Pesch.

THE COURT: Counsel, you may proceed when you are ready.

MS. MOMOH: Thank you, Your Honor.

BY MS. MOMOH:

Q. Good morning and welcome back.

A. Thank you.

Q. Again, Adine Momoh on behalf of defendant BMO Harris Bank.

I saw you put some binders back. You might want to have them ready again for purposes of our discussion this morning.

A. Okay.

Q. Now, during Mr. Collyard's examination on Thursday and Friday -- and remember Mr. Collyard represents the plaintiff in this case -- you testified that you reviewed alerts for the PCI account to which you were assigned. Do you remember that discussion?

A. Yes.

Q. Before September of 2008, over what period of time did you review the PCI account?

A. I would say any time between the period of January 2005

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1 to up to September 2008 where alerts would have been
2 assigned to me that were for PCI.

3 Q. And you testified earlier about the different
4 information that would have been available in Searchspace
5 with respect to checks compared to wires. Do you recall
6 that?

7 A. Yes.

8 Q. You mentioned that checks had a memo field. Can you
9 remind the jurors what that refers to and what information
10 might be contained in there.

11 A. The memo field is a line on a check where the person who
12 is writing the check can add a note of their choice.
13 Oftentimes that's used to identify or give information about
14 the purpose of the check.

15 Q. Did wire transfers have a memo field or similar
16 information available about them?

17 A. Can you clarify if you mean in Searchspace or within the
18 wire form?

19 Q. With respect to Searchspace.

20 A. No, that information was not available in Searchspace.

21 Q. Okay. So bringing your memory back to last Friday,
22 Mr. Collyard had shown you a series of checks and there was
23 a discussion about a check involving Disney on Ice. Do you
24 recall that?

25 A. Yes.

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1 Q. With respect to Searchspace, I believe you had looked at
2 a check and the memo field had "Disney on Ice." Is that
3 correct?

4 A. Yes.

5 Q. Would that information, that memo with respect to Disney
6 on Ice, would that have been available to analysts in
7 Searchspace?

8 A. No.

9 Q. You also provided an overview of the process that you
10 would follow when adjudicating alerts from the assigning of
11 an alert to the research of an alert, all the way to the
12 alert being closed or escalated for further review. Is
13 there any reason to think that you would deviate from the
14 process that you described during this 2005 to 2008 period?

15 A. It was my practice to refer to the guidelines and follow
16 them when adjudicating alerts.

17 Q. So generally speaking, how would the process that you
18 described compare to the approach that you would take with
19 respect to the alerts that you would review during the 2005
20 to 2008 period?

21 A. It would have been the same. I would have used the
22 guidelines to -- as reference when I was working through
23 alerts.

24 Q. Focusing on that period of time, before September of
25 2008, what sort of information did you find when reviewing

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1 the PCI account?

2 A. Sorry. Could you repeat your question?

3 Q. Sure. So I want to focus on the period before September
4 of 2008, so before the FBI raid -- right? -- in September of
5 2008. When you were adjudicating alerts with respect to PCI
6 specifically, what information did you find when researching
7 information related to the PCI account?

8 A. As regards internet research, the information was all
9 positive about all the Petters companies and Tom Petters.

10 Q. You said that the information was all positive. What
11 sort of information are you referring to?

12 A. There was news articles, information on their website,
13 interviews that various media groups had done on him,
14 profiles on him and his companies.

15 Q. I would like to show you an exhibit that has not been
16 admitted yet.

17 MS. MOMOH: Mr. Herzka, if you could put up
18 Defendant's Exhibit DX-80020.

19 THE WITNESS: Could you repeat the number for me?

20 MS. MOMOH: 80020.

21 Your Honor, if I may have a moment?

22 THE COURT: You may.

23 (Mr. Gleeson and Ms. Momoh confer)

24 MS. MOMOH: And, Your Honor, this is not in the
25 binder. Your Honor, if we may go off the record for a

1 moment and may I approach the court reporter, please?

2 THE COURT: You may.

3 **(At sidebar)**

4 THE COURT: Are you speaking to me or to my court
5 reporter?

6 MS. MOMOH: My understanding was with respect to
7 showing the witness exhibits that had not been offered yet,
8 that it would still be available on her screen, but not
9 available on this screen or on counsel table's screens.

10 THE COURT: Are you planning to admit it into
11 evidence?

12 MS. MOMOH: Yes, yes. So I don't --

13 MR. COLLYARD: I don't have a copy of her exhibit.
14 I don't know what copy she is actually talking about. It's
15 not in my book that she handed out.

16 MS. MOMOH: It's not in the book, but it was
17 disclosed. This was the --

18 THE COURT: Okay. Well, you need to provide a
19 copy to counsel, to the witness and it can be reviewed
20 before the witness is asked to address it.

21 MS. MOMOH: So with this particular document, I am
22 showing her electronically so it wouldn't have been provided
23 in her binder, but it was disclosed to the other side as to
24 the exhibits that I was going to be using during her
25 examination.

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1 THE COURT: So can you show it to -- I don't know
2 what our capability is.

3 MS. MOMOH: I can --

4 THE COURT: Are you capable of showing it to
5 counsel?

6 MS. MOMOH: Absolutely. But my understanding
7 still is that she would be able to see it on her screen.

8 THE COURT: She can --

9 MS. MOMOH: No. Yeah, I thought she would be able
10 to see it on her screen even though it's not admitted yet so
11 that I can go through the pages and discuss it with --

12 THE COURT: You've got to address -- right. You
13 have to be able to establish foundation.

14 MS. MOMOH: Correct.

15 THE COURT: And in order to establish foundation,
16 I think --

17 MS. MOMOH: Absolutely. Absolutely.

18 THE COURT: -- you have to -- are you trying to
19 establish foundation and that is why you are questioning her
20 as she looks at it --

21 MS. MOMOH: Correct.

22 THE COURT: -- without it being --

23 MS. MOMOH: Correct, absolutely.

24 THE COURT: -- without it being admitted?

25 MS. MOMOH: Absolutely.

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1 THE COURT: Then your plan is to admit the --

2 MS. MOMOH: Correct, yes. I just want to make
3 sure that she has it on her screen, and I can't tell right
4 now. So I can ask her if it's on her screen, and I can show
5 you that again. This was one of the documents that was
6 disclosed in my e-mail to your team, and we argued it
7 actually on the first trial day that she would have been
8 called.

9 THE COURT: And you are familiar with this
10 exhibit?

11 MR. COLLYARD: I'm not familiar with this exhibit.

12 MS. MOMOH: It's the Petters magazine document
13 that I had argued with Mr. Reif in the morning during one of
14 the 8:00 sessions. I think it was Friday morning when I had
15 argued that issue. So they made an objection on the record
16 that it was inadmissible hearsay. So they've already seen
17 it, we have already argued it. I'm just trying to lay the
18 proper foundation. In order to do that, she needs to see
19 the document. That's what I am trying to do.

20 MR. COLLYARD: I just would like to see it.

21 MS. MOMOH: Yeah, that's fine.

22 THE COURT: And whenever we are addressing
23 documents with witnesses, they need to be -- counsel needs
24 to be able to see it for purposes of determining if there's
25 a valid objection for purposes --

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1 MS. MOMOH: Yes, absolutely, absolutely.

2 THE COURT: Okay.

3 **(In open court)**

4 BY MS. MOMOH:

5 Q. Ms. Pesch, do you see a document on your screen?

6 A. Yes.

7 Q. Okay. Thank you. So what I'm showing you again is an
8 exhibit that has not been admitted yet. It's Defendant's
9 Exhibit DX-80020. I would like you to look at page 1 of
10 this document. Do you recognize it?

11 A. Yes.

12 Q. How do you recognize it?

13 A. This was something I reviewed while working alerts on
14 the case.

15 Q. Okay. And I want to show you another exhibit that
16 hasn't been admitted yet, Defendant's Exhibit DX-80021. And
17 here you are looking at the first page of this document. Do
18 you recognize this document?

19 A. Yes.

20 Q. How?

21 A. Just like the last one, this was something I had
22 reviewed while reviewing the alerts.

23 MS. MOMOH: Your Honor, defendants offer into
24 evidence Defendant's Exhibit DX-80020 and DX-80021.

25 MR. COLLYARD: Your Honor, objection as to hearsay

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1 and authenticity.

2 THE COURT: What is the exhibit being offered for?

3 MS. MOMOH: Your Honor, this is not hearsay. This
4 document and the other document are not being admitted for
5 the truth of the matter that is asserted therein. They are
6 being offered for purposes of state of mind and the impact
7 upon the reader, the reader being Ms. Pesch, as she reviewed
8 these documents as part of her research for the PCI account.

9 THE COURT: Okay. I am going to sustain the
10 objection. You may question her about her state of mind and
11 perhaps there's a basis for admitting the exhibit at some
12 other time.

13 MS. MOMOH: Your Honor, at this point may we use
14 the exhibit as a demonstrative?

15 THE COURT: For what purpose?

16 MS. MOMOH: For her to explain and to demonstrate
17 what she was seeing as she was reviewing the magazines.

18 MR. COLLYARD: Your Honor, objection. Under your
19 rule, we're not to publish any exhibits unless they're
20 admitted in evidence, and I maintain my same objections.

21 MS. MOMOH: And, Your Honor, at this point I'm not
22 seeking to admit it. We may try to do that at another time,
23 but for purposes of this, just as a demonstrative.

24 THE COURT: Overruled -- I'm sorry. The objection
25 is sustained.

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1 BY MS. MOMOH:

2 Q. Ms. Pesch --

3 MS. MOMOH: Your Honor, quick sidebar for a moment
4 just so I understand what I am able to ask about them?

5 THE COURT: (Indicating).

6 **(At sidebar)**

7 MS. MOMOH: Am I allowed to at least ask her to
8 describe what she's seen without putting a document up?

9 THE COURT: What is the purpose of that? I don't
10 understand your question.

11 MS. MOMOH: Sure.

12 THE COURT: What is the purpose of your question?

13 MS. MOMOH: Absolutely, so -- and I will --

14 THE COURT: Keep your voice down so that the jury
15 does not hear you.

16 MS. MOMOH: Absolutely.

17 THE COURT: I can hear you.

18 MS. MOMOH: So the purpose of showing the
19 magazines, these two in particular, is that Ms. Pesch just
20 testified that when she was adjudicating alerts with respect
21 to PCI prior to the FBI raid, so this would have been 2005
22 to 2008, she had said that as part of her research, that she
23 had reviewed various newsletters, magazines, and other
24 internet; and this is an example of what she had found on
25 the internet when she was researching PCI back in the 2005

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1 period. And I was --

2 THE COURT: Why is this relevant?

3 MS. MOMOH: It's the impact upon the reader with
4 respect to what was her understanding of Petters in the
5 community at the time that she was adjudicating the alerts
6 and what was her understanding of PCI and the various
7 entities that Tom Petters had operated during that period of
8 time; all of that which was considered in her review of the
9 alerts, which is what I will get into when I ask her the
10 questions.

11 THE COURT: So I think -- go ahead.

12 MR. COLLYARD: Your Honor, I maintain my
13 objections. She doesn't need a magazine from 2005 to be
14 talking about that.

15 THE COURT: Well, she can use it to refresh her
16 recollection, but she needs to testify about what she did
17 and why she did it. It's not about testifying about what's
18 in the magazine.

19 MS. MOMOH: There's no doubt about that,
20 Your Honor. Our purpose in showing the magazine is for the
21 jurors to understand and to also see what Mary Pesch herself
22 saw in 2006. These two magazines are from 2006. One, I
23 believe, is from fall -- or spring of 2006. The other is
24 from winter of 2006. Mr. Collyard had shown Ms. Pesch on
25 Thursday and Friday alerts that she had reviewed and

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1 comments that she, herself, had inserted as an analyst with
2 respect to her review of the PCI account.

3 And what we're trying to establish is that she
4 also, as part of her research -- what she just testified to
5 was that she conducted internet research; and in her
6 research, she had found these PCI newsletters and magazines
7 and that had an impression upon her.

8 THE COURT: So she can --

9 MS. MOMOH: We want to show that --

10 THE COURT: -- testify to all of that, but she
11 does not get to show what the newsletters say or publish the
12 newsletters --

13 MS. MOMOH: Well, the --

14 THE COURT: -- or the articles.

15 MS. MOMOH: -- the newsletters, the first part is
16 a picture. It's just a picture, and then the other pages
17 I'm going to show are pictures. Not the content in the
18 magazine itself, it's just pictures. Again, it's an
19 illustration.

20 So as I was saying, even if we can't admit it
21 today, I would at least like to show it as a demonstrative
22 with respect to the images that are in the magazines.

23 MR. COLLYARD: Your Honor, this isn't even a
24 document that was produced in this case. Those alerts that
25 we're talking about, she can go through and talk about what

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1 she did to adjudicate, review, and investigate. She doesn't
2 mention anything about magazines or anything like that.

3 And there's absolutely -- there's authenticity
4 issues. They are pulling up a magazine that they went and
5 found on the internet themselves, and now they are going to
6 try to establish that Mary Pesch saw that and that somehow
7 had an impact on her.

8 THE COURT: Right. The objection is sustained.
9 The line of questioning is improper.

10 MR. COLLYARD: Thank you, Your Honor.

11 MS. MOMOH: But --

12 **(In open court)**

13 BY MS. MOMOH:

14 Q. So Ms. Pesch, we were talking about the information that
15 you had found when you were researching the PCI company, as
16 well as Tom Petters, during the 2005 to 2008 period when you
17 were adjudicating alerts, correct?

18 A. Yes.

19 Q. And you had mentioned that you had found newsletters and
20 magazines as part of your research, correct?

21 A. Yes.

22 Q. Describe for the jurors, please, what you saw with
23 respect to the magazines related to Tom Petters or PCI.

24 A. I remember that Tom Petters was on the cover of each of
25 the magazines; and within the magazines there were articles

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1 detailing things their businesses had done, their
2 accomplishments, events. They had attended, like, trade
3 shows with pictures of their stand and involvement in those
4 events, as well as things like charitable events,
5 fundraisers, and things like that. I remember lots of
6 pictures with business leaders and some celebrities.

7 Q. Which celebrities do you recall seeing?

8 A. I remember David Spade in some of the pictures.

9 Q. Who is David Spade?

10 A. A comedic actor.

11 Q. Do you remember seeing any other celebrities?

12 A. Possibly Bill Cosby, I think. There were a number. I
13 guess without being able to look at it, I'm not sure who
14 else.

15 Q. And you said celebrities such as David Spade and Bill
16 Cosby. Who were they pictured with in the magazine?

17 A. Oftentimes with Petters and other -- maybe his family
18 members and some other business leaders.

19 Q. "Petters" being Tom Petters?

20 A. Yes.

21 Q. You mentioned in your review of the magazines that you
22 would see information with respect to Tom Petters' and PCI's
23 charitable events?

24 A. Yes.

25 Q. Tell me more about that, please.

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1 A. I remember galas they -- from the pictures and what was
2 written, they appeared to be major events; very large, lots
3 of attendance.

4 Q. So you just described what you had seen in these
5 magazines. With the first magazine, tell me what was the
6 period of the magazine?

7 A. I don't remember offhand.

8 MS. MOMOH: If you can -- Mr. Herzka, again, I am
9 showing the witness an exhibit that has not been admitted.
10 If you can pull up first Exhibit DX-80020.

11 BY MS. MOMOH:

12 Q. And, Ms. Pesch, please review it and let me know if that
13 refreshes your recollection as to the date of this magazine.

14 A. It's dated Summer 2006.

15 Q. Summer of 2006?

16 A. Yes.

17 Q. Okay.

18 MS. MOMOH: Mr. Herzka --

19 BY MS. MOMOH:

20 Q. Again, I'm going to show you an exhibit that has not
21 been admitted. This is DX-80021. If you can review that,
22 does that refresh your recollection as to the date of this
23 magazine?

24 A. That says Winter 2006.

25 Q. Winter of 2006?

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1 A. Yes.

2 Q. Thank you.

3 When would you have reviewed these magazines?

4 A. Any time after they were published that I was working
5 alerts.

6 Q. What year, then?

7 A. 2006 and beyond.

8 Q. What impact did your review of the information that you
9 just discussed, the celebrities that were pictured with Tom
10 Petters, the charitable events and givings that Tom Petters,
11 PCI had identified in the magazine, what impact did all of
12 this have on you as you were reviewing the alerts with
13 respect to the PCI account during that 2005 to 2008 period?

14 A. This would have -- this type of material made me feel
15 that it was a large family of businesses. They were
16 involved in major business activities and were well
17 respected in the community by business leaders and people in
18 the community, and he was very involved and helped out a lot
19 of people and groups.

20 Q. My apologies. You may finish.

21 A. Sorry. I was finished.

22 Q. Thank you. I just want to focus on the first part of
23 your response. You said, "This type of material made me
24 feel that it was a large family of businesses." Who is the
25 "it" that you were referring to?

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1 A. The companies owned by Tom Petters.

2 Q. Would that include PCI?

3 A. Yes.

4 Q. On Friday plaintiff's counsel, Mr. Collyard, asked you
5 several questions about Exhibit P-0234 and P-0398, the
6 additional guidelines for Searchspace. Do you recall those
7 questions?

8 A. I recall discussing it. I don't remember the specific
9 questions.

10 MS. MOMOH: Mr. Herzka, if you could pull up
11 what's been admitted as P-0398. If you could go to page 5.

12 BY MS. MOMOH:

13 Q. Ms. Pesch, Mr. Collyard showed you page 5 of P-0398
14 where it says, "The following points should be covered in
15 the comments section of Searchspace when closing an alert to
16 expected or explainable activity." Do you remember that?

17 A. Yes.

18 Q. I just want to draw your attention here to the screen
19 and the information that follows the sentence that I just
20 read. Mr. Collyard referred to the information here on page
21 5 as, quote, checklists, end quote. Do you remember that?

22 A. Yes.

23 Q. Now, you replied multiple times that the guidelines he
24 was showing you here on page 5 were lists. Do you recall
25 that testimony?

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1 A. Yes.

2 MR. COLLYARD: Objection, argumentative and
3 leading.

4 THE COURT: Overruled.

5 THE WITNESS: Yes, I remember that.

6 BY MS. MOMOH:

7 Q. Please explain to the jury what you meant when you said
8 they were lists as opposed to checklists.

9 A. Because every alert is different, you can't have a list
10 that has everything that you should do for each alert. It
11 wouldn't all be the same. You would do what applies for the
12 alert in question.

13 Q. Remember our discussion on Friday about closing states,
14 filters, and comments in Searchspace?

15 A. Sorry, can you repeat your question?

16 Q. Sure. Do you remember our discussion also -- before I
17 was talking to you about questions that Mr. Collyard had
18 asked you, but now I want to talk about our discussion that
19 we had on Friday with respect to closing states, filters,
20 and comments in Searchspace.

21 MS. MOMOH: Mr. Herzka, if you can show what's
22 been admitted as DX-50711.

23 BY MS. MOMOH:

24 Q. And you remember that this is another variation of the
25 additional guidelines and analysis and investigation of

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1 alerts in Searchspace, correct?

2 A. Yes.

3 MS. MOMOH: Mr. Herzka, if you could go to page 6,
4 please, of this document.

5 BY MS. MOMOH:

6 Q. Ms. Pesch, if you can read the paragraph on page 6 out
7 loud that begins, "The focus for closed to expected alerts."

8 A. "The focus for closed to expected alerts will be on
9 explaining the reason for the alert. Analysts will be
10 required to look at everything, but only document what
11 alerted and the source or use of funds. Of course, if other
12 unusual activity is identified, that should be commented on
13 as well."

14 Q. I just want to focus on the second sentence here in this
15 paragraph, "Analysts will be required to look at everything,
16 but only document what alerted and the source or use of
17 funds." What does that second sentence that I just read
18 mean?

19 A. It means we had to look at all the transaction activity
20 in the alert but only comment on why the alert was created
21 and the source or use of funds depending on the alert
22 reason, the creation reason.

23 MS. MOMOH: Mr. Herzka, if you can highlight the
24 example at the bottom where it says, "Wire Example."

25 BY MS. MOMOH:

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1 Q. Plaintiff's counsel asked you a series of questions with
2 respect to various comments that you and the other AML
3 analysts wrote during the 2005 to 2008 period. Do you see
4 the example on page 6 here that says, "Wire Example"?

5 A. Yes.

6 Q. I want to draw your attention to the words
7 "documentation" and "comments." Do you see "comments" in
8 the third row here towards the end?

9 Based on your experience and training as an AML
10 analyst, what is your understanding of what sort of comments
11 would have been required for an analyst with respect to the
12 closed to expected expedited review and no longer under the
13 manager review?

14 A. That you would comment on the reason for the alert and
15 what the funds were used for in this example.

16 Q. And can you read the last sentence here in this example
17 out loud, please.

18 A. "Other activity must be reviewed for anything unusual
19 but comments in Searchspace only need to state something
20 like, 'other activity appears consistent and expected for a
21 personal account.'"

22 Q. That last sentence, what does that mean to you?

23 A. That we did not need to comment on other activity in the
24 account other than to apply a general comment stating that
25 it didn't appear suspicious if that was the conclusion we

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1 reached after reviewing.

2 Q. So to be clear, even if applying the filters during the
3 2005 to 2008 period meant that an alert would be subjected
4 to the closed to expected state, would the transactional
5 activity that alerted still have been reviewed?

6 A. Can you repeat your question?

7 Q. Sure. So even if applying the filters during the 2005
8 to 2008 period meant that an alert would be subjected to the
9 closed to expected state, would the transactional activity
10 that alerted still have been reviewed by an analyst?

11 A. Yes.

12 Q. So same period of time, even if applying the filters
13 during the 2005 to 2008 period meant that an alert would be
14 subjected to the quick closed state, would the transactional
15 activity that alerted still have been reviewed by an
16 analyst?

17 A. Can you repeat your question?

18 Q. Sure. So I am just asking a different question. Before
19 I had asked you about review of transactional activity that
20 would have been subjected to the closed to expected state.
21 So let's switch it. Let's say we're talking about
22 transactional activity that would be subjected to the quick
23 closed state because of the applicable filters that applied
24 during the 2005 to 2008 period. My question is: Would the
25 transactional activity that alerted in the first place still

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1 have been reviewed by an analyst?

2 A. Yes.

3 Q. Okay. Let's switch gears. When reviewing alerts in
4 2005 to 2008, would you review alerts for higher-risk
5 customers?

6 A. Yes.

7 Q. When you were an analyst during the 2005 to 2008 period,
8 was it within your job responsibility as an AML analyst to
9 identify which customers constituted, quote, unquote,
10 higher-risk businesses to M&I?

11 A. Yes.

12 Q. It would have been within your job responsibilities to
13 designate businesses as high risk?

14 A. Sorry. I misunderstood your question. No, I did not
15 add customers to the high-risk customer list myself.

16 Q. You said that you would not make the determination as to
17 customers to be added to the high-risk customer list. Who
18 would have made that determination then at M&I?

19 A. That list was managed by, and I don't remember the exact
20 name of the group, but it was something like the AML
21 compliance team or compliance -- AML Compliance.

22 THE COURT: I didn't hear the last part of your
23 response. Would you just say that again.

24 THE WITNESS: Oh, I don't remember the exact name
25 of the group, but it was something like AML Compliance.

Pesch - Direct

1 BY MS. MOMOH:

2 Q. To be clear, though, that would not have been -- okay,
3 let me ask it this way: Would the AML Compliance that you
4 just mentioned, would that have been part of the AML Analyst
5 Monitoring Group?

6 A. No, it wasn't part of the Transaction Monitoring Group.

7 Q. Did you have a general understanding as to which
8 customers would have been designated as higher risk during
9 the 2005 to 2008 period?

10 A. Can you clarify if you mean if they were in a
11 higher-risk industry type or if they were actually
12 identified as a higher-risk customer?

13 Q. The former. So with respect to general business type,
14 did you have a general understanding as to which customers
15 could have been designated as higher risk during the 2005 to
16 2008 period?

17 A. Yes.

18 Q. How would you describe the sorts of customers that were
19 designated as higher risk during the 2005 to 2008 period?

20 A. They would have operated in an industry type that was
21 designated as higher risk.

22 Q. They would have operated in an industry type that was
23 designated a higher risk.

24 Let's say with respect to business type, then,
25 what sort of -- what's an example of a business -- and I'm

Pesch - Direct

1 not asking for a specific bank customer, but just generally
2 an example. What would be an example of a bank customer
3 that would be deemed higher risk because of its business
4 type?

5 A. A cash-intensive restaurant -- excuse me, a
6 cash-intensive business like a restaurant.

7 Q. And same question, but this time with respect to
8 geography. What would be an example of a customer of the
9 bank that would be deemed higher risk because of its
10 geography?

11 A. That could be a company that's registered in or operates
12 in a foreign country.

13 Q. What countries? Could you give an example?

14 A. M&I had a high-risk country list, so a country listed on
15 that list.

16 Q. Based on your understanding of higher-risk businesses
17 during the 2005 to 2008 period, would PCI have been
18 considered a higher-risk business?

19 A. No.

20 Q. Why do you say that?

21 A. It didn't operate in a higher-risk industry type. It
22 didn't -- it wasn't in a high-risk jurisdiction. I don't
23 remember them having high-risk products either.

24 Q. Recall that on Friday during our discussion you
25 testified that September of 2008 was memorable to you not

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1 only because you were married in that month and you were on
2 your honeymoon, but because when you returned to work from
3 your honeymoon, you were greeted by a large stack of
4 documents waiting for you. Do you remember that discussion?

5 A. Yes.

6 Q. Remind the jurors as to what those documents were that
7 were waiting for you.

8 A. It was a folder of printouts that included news articles
9 that had come out in the last week, as well as printouts
10 from CIS, the Customer Information System at M&I.

11 Q. Ms. Pesch, I'm going to show you an exhibit that has not
12 been admitted yet. It is exhibit -- Defendant's Exhibit
13 DX-50718. You can review the document and let me know when
14 you've finished.

15 (Witness reviews document)

16 A. Okay.

17 Q. What are we looking at?

18 A. It's a series of e-mails that I received from Shandra
19 Roehrig.

20 Q. Who is Shandra Roehrig?

21 A. She was the lead analyst, although it looks like her
22 exact title at that time was AML assistant manager.

23 Q. What's the date of this e-mail communication?

24 A. They are both dated September 26, 2008.

25 Q. And you said this e-mail was from Shandra Roehrig. Who

Pesch - Direct

1 does she send this e-mail to?

2 Let me rephrase. This is an exhibit -- is this an
3 e-mail that Shandra Roehrig had sent to you?

4 A. Yes.

5 Q. Prior to today, did you recognize this document?

6 A. I would have, yes.

7 MS. MOMOH: Your Honor, defendants offer into
8 evidence Exhibit DX-50718.

9 MR. COLLYARD: No objection, Your Honor.

10 THE COURT: DX-50718 is admitted in evidence.

11 BY MS. MOMOH:

12 Q. Ms. Pesch, if you can turn to page 2, please.

13 A. Okay.

14 Q. And I would like you to read the third paragraph out
15 loud, the third paragraph that begins, "I spoke with
16 Kelley."

17 A. "I spoke with Kelley and Peter, and they agreed we would
18 like to revisit the account for review. I realize we have
19 already closed alerts covering activity for the past three
20 months, but we would like to take a second look at the wire
21 activity, specifically looking for any unusual or
22 identifiable patterns of payees or flow of funds. Please
23 begin with the most recent 3 months for your review, looking
24 historically to see if any patterns you identify have been
25 ongoing. Feel free to expand the time period if you feel

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1 it's necessary."

2 Q. So the last two sentences, "Please begin with the most
3 recent 3 months for your review, looking historically to see
4 if any patterns you identify have been ongoing. Feel free
5 to expand the time period if you feel it is necessary." Who
6 is the Kelley that is referred to here?

7 A. Kelley Maltsch.

8 Q. What was her role at this time in September of 2008?

9 A. I don't remember her exact title at the time, but she
10 managed that AML Compliance Group.

11 Q. Who is Peter that's identified here?

12 A. Peter Janczak.

13 Q. What was his role at this time in September of 2008?

14 A. Compliance officer.

15 Q. Now, on Friday, Mr. Collyard, counsel for plaintiff,
16 showed you a case that you wrote with respect to the PCI
17 account following the FBI raid in 2008. Take the jurors
18 back to this moment in 2008. You got this e-mail. You
19 received this e-mail from Shandra Roehrig. So take us back
20 to that moment. What were you being asked to do?

21 A. I was being asked to review the subpoena and the news
22 articles that Shandy had printed out and to look back at
23 that transaction activity in light of the new information.

24 Q. In light of the new information. Which information?

25 A. From the FBI raid and that was contained in the subpoena

Pesch - Direct

1 and news articles.

2 Q. Why do you say "new"?

3 A. Because that information was not available before that
4 time.

5 Q. What did you ultimately do?

6 A. I reviewed the case; and based on what I read in the
7 articles and what I saw in the transaction activity, I
8 quickly escalated it to a case and talked to Shandy and
9 expanded the review period.

10 Q. By "Shandy," you mean Shandra Roehrig?

11 A. Yes.

12 MS. MOMOH: Mr. Herzka, if you could pull up
13 what's been admitted as Plaintiff's Exhibit P-249.

14 Mr. Herzka, if you could go to the second page of this
15 document, please. If I could have a moment.

16 THE COURT: You may.

17 (Pause)

18 BY MS. MOMOH:

19 Q. I am going to show you a different exhibit. I am going
20 to show you an exhibit that has not been admitted into
21 evidence. This is in defendant's binder. It is DX-50725.
22 And review this document, please, before we go on, and let
23 me know when you've had a chance to look at it.

24 (Witness reviews document)

25 A. Okay.

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1 Q. I want to draw your attention to the middle of this
2 document. Do you -- you see that there's -- it's an
3 e-mail -- right? -- and then there's an e-mail within it; is
4 that correct?

5 A. Yes.

6 Q. With respect to the e-mail within the chain, what is
7 this? What is this that we're looking at?

8 A. Shandy was forwarding an e-mail that I had sent her, and
9 the e-mail from myself lists a few links --

10 Q. Sorry. Before we talk about the document, I just want
11 to draw your attention to the e-mail chain and the e-mail
12 that you had forwarded, correct?

13 A. Yes.

14 Q. Okay. And what's the date of the e-mail that you had
15 sent to Shandra Roehrig?

16 A. September 29th, 2008.

17 Q. And, again, Shandra Roehrig, that's the same individual
18 that we had talked about earlier?

19 A. Yes.

20 Q. Do you recognize this e-mail?

21 A. Yes.

22 Q. How do you recognize it?

23 A. I remember sending it.

24 MS. MOMOH: Your Honor, defendants offer into
25 evidence Exhibit DX-50725.

1 MR. COLLYARD: No objection, Your Honor.

2 THE COURT: DX-50725?

3 MS. MOMOH: 50725.

4 THE COURT: Thank you. DX-50725 is admitted in
5 evidence.

6 BY MS. MOMOH:

7 Q. I want to draw your attention to the first paragraph of
8 this e-mail, and it reads, "Here are a few articles Mary has
9 found on the Petters case." Do you see that?

10 A. Yes.

11 Q. And then if you could read the second paragraph, please.

12 A. "The articles mention certain entities within the
13 Petters family of companies: Enchanted Family Buying
14 Company, Nationwide International Resources, and Metro Gem
15 as shell companies in which he was using to lure investors.
16 In my brief review of the account for wire activity last
17 spring, I saw wire transfers involving all three. Metro Gem
18 is the company the article mentions as having CEO Frank
19 Vennes who had a money laundering conviction in 1987."

20 Q. And to be clear, the language that you were reading
21 here, that's not your language, correct?

22 A. Correct.

23 Q. Who wrote that?

24 A. Shandy.

25 Q. And if you could look below, what is it that we're

Pesch - Direct

1 looking at here?

2 A. The e-mail that I sent to Shandy.

3 Q. You identified in your e-mail to Shandra Roehrig three
4 articles, including an article from the *Star Tribune* and an
5 article from Minnesota Public Radio, correct?

6 A. Yes.

7 Q. And in your e-mail, what's the body -- besides the links
8 that are provided here, what does the body of your e-mail
9 say?

10 A. "Articles describing Tom Petters and Petters Company,
11 Inc. fraud case."

12 Q. To be clear, were these articles that you identified in
13 your e-mail here at Exhibit 50725 available before the PCI
14 Ponzi scheme being uncovered in September of 2008?

15 A. No.

16 Q. How did you conduct your research?

17 A. I did a lot of internet searches where I was searching
18 the name of Tom Petters, his businesses, and individuals or
19 companies that I found identified in either the subpoena or
20 the materials Shandy had provided to me.

21 Q. And to be clear, the research that we're talking about
22 now is the research that you conducted after the FBI raid of
23 PCI in September of 2008, correct?

24 A. Yes.

25 Q. What did you find during this research?

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1 A. A lot of information detailing the fraud scheme.

2 Q. Such as what?

3 A. The information that law enforcement had as a result of
4 Deanna Coleman's cooperation.

5 Q. You said "Deanna Coleman." Based on what you know, who
6 is Deanna Coleman?

7 A. She was an executive with the Petters companies.

8 Q. How would you compare the nature of the information that
9 you saw as part of your research for PCI in 2006 with the
10 information that you saw in 2008 after the FBI raid of PCI?

11 A. Can you repeat that?

12 Q. Sure. So I would like you to compare two different
13 periods of time -- okay? -- with respect to the research
14 that you did on the PCI account. How would you compare the
15 information that you found and read in 2006 related to the
16 PCI account to the information you saw and read in 2008
17 after the FBI raid?

18 A. It was very different.

19 Q. How so?

20 A. Before the raid, the information was all positive. It
21 focused on Tom Petters' entrepreneurial skills and how he
22 was building this empire of successful businesses and they
23 were growing. And, afterwards, it was all the very
24 extensive negative information about the fraud.

25 Q. After you completed your research pursuant to Shandy

1 Roehrig's instructions, what did you do next?

2 A. I did a lot of research.

3 Q. What do you mean?

4 A. As I -- it looks like I started with these articles, and
5 as I was reading more, I was researching more of the parties
6 that I found and trying to connect them with what was being
7 described in the articles trying to see if I could verify
8 what was being said in the articles and comparing it to the
9 transaction activity.

10 Q. When you completed the adjudication of your assigned
11 alert during this post-FBI-raid period, what did you
12 ultimately conclude?

13 A. That the activity looked suspicious and needed to be
14 escalated.

15 Q. "That the activity looked suspicious," what do you mean?

16 A. The activity in the account appeared similar to what was
17 being described for the fraud.

18 Q. Just so that we can understand the terminology here,
19 you -- as an AML analyst, you understand the terminology of
20 "suspicious activity"?

21 A. Yes.

22 Q. What is suspicious activity?

23 A. Activity that doesn't appear to have a lawful purpose.

24 Q. And so when you said that the activity that you were
25 reviewing after the FBI raid looked suspicious, I will ask

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1 the question again, what do you mean?

2 A. I'm sorry. Can you repeat that one more time?

3 Q. Sure. You had used the word "suspicious" before. You
4 just defined "suspicious activity" with respect to your role
5 as an AML analyst. So with respect to the activity that you
6 had concluded was suspicious after the FBI raid of 2008,
7 what do you mean?

8 A. That that activity should be escalated to a case.

9 MS. MOMOH: Mr. Herzka, if you could put up what's
10 been admitted as Plaintiff's Exhibit P-333.

11 BY MS. MOMOH:

12 Q. Ms. Pesch, I am showing you what Mr. Collyard,
13 plaintiff's counsel, had shown you last week, the case that
14 you prepared with respect to the PCI account in October of
15 2008.

16 After you reached your conclusion that there was
17 suspicious activity in the PCI account during the time
18 period you were asked to review, then what did you do?

19 A. I'm sorry. Can you repeat that one more time?

20 Q. Sure. So we know that you prepared a case, correct?

21 A. Yes.

22 Q. When did you prepare this case?

23 A. After I reviewed the activity in the alert, I determined
24 it looked suspicious. I escalated it to a case. I reviewed
25 the activity in the case right after that.

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1 Q. Do you recall how many pages were this case?

2 A. It was a very large case. I don't know the exact
3 number, but we had case folders, and that was completely
4 full to the point where I couldn't put any more in there;
5 and I had an expandable folder that was also almost entirely
6 full with supporting documentation (indicating).

7 MS. MOMOH: Let the record reflect that Ms. Pesch
8 was using her hands to describe the volume of the documents
9 that were in the folder of materials that she had collected
10 at the time.

11 BY MS. MOMOH:

12 Q. Ms. Pesch, please walk the jurors through the steps that
13 you took to prepare the October 2008 case.

14 A. In addition to the research -- the internet research
15 that I talked about where I did a lot of reading and
16 searching for news reports detailing the fraud and some
17 articles focused more specifically on certain parties, so I
18 tried to get as many of those as I could covering parties
19 that I saw within the transaction activity.

20 And then I exported the wires from Searchspace and
21 started organizing them to review and get totals per party
22 or per other parties on the wires, so other originators or
23 beneficiaries.

24 Got the totals for those, and then went and tried
25 to supplement that information with -- or document that

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1 information with what I had found in the articles about the
2 different parties, and printing out all of my research to
3 add as supporting evidence.

4 Q. I want to show you a document that you were shown on
5 Friday.

6 MS. MOMOH: Mr. Herzka, if we could compare page
7 21 of Plaintiff's Exhibit 333 to Plaintiff's Exhibit P-0411.

8 BY MS. MOMOH:

9 Q. Ms. Pesch, do you see these two documents?

10 A. Yes.

11 Q. Now, you were shown these on Friday. They were zoomed
12 in a little bit more so you could see the language on the
13 left a little bit clearer, correct?

14 A. Yes.

15 Q. What are we looking at, generally speaking?

16 A. A document that I created as a visual aid to try to show
17 the flow of funds within this case.

18 Q. Explain to the jurors the distinction. It looks like
19 the document on the left that's at page 21 of Plaintiff's
20 Exhibit P-333 has text, handwritten text, compared to the
21 same diagram that you can see in Plaintiff's Exhibit 411 at
22 page 1 without the handwritten text. What's the difference?

23 A. So they're different drafts of the same visual aid where
24 I was trying to display the parties involved and group them
25 into categories with arrows that show the direction of the

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1 funds.

2 Q. What steps did you take to put the diagrams together?

3 A. First I had to try to find a program -- well, actually,
4 first I was writing it out trying to figure out the best way
5 to make sense of it myself. And then after a few drafts,
6 then I was trying to find a program that I could display
7 this in. And ultimately I ended up on PowerPoint because I
8 knew how to add boxes and shapes and arrows.

9 And then after -- I used my research of all of the
10 wire data and what I had found in my research and tried to
11 group the parties into different categories, like parties
12 that were identified as investors or victims, parties that
13 were included in the fraud, parties that were part of the
14 Petters companies, and then a group where I wasn't quite
15 sure if they were involved or victims.

16 Q. How long did it take you to put these diagrams together?

17 A. This took a couple days.

18 Q. Please explain to the jurors what these documents show.

19 A. It shows the major parties involved for the majority of
20 the fund transfers for this case.

21 Q. Who was the audience for these diagrams? What was the
22 purpose of you preparing this?

23 A. I realized as I was writing the case that it was
24 extremely data heavy and overwhelming, and for -- the visual
25 aid helped me understand it, and so I created a more

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1 polished version to include in my presentation to the SAR
2 Review Committee.

3 Q. What's the SAR Review Committee?

4 A. It's the committee that we would present cases at.

5 Q. On Friday Mr. Collyard asked you questions about your
6 creation of flowcharts when reviewing some alerts during the
7 period of 2005 to 2008. Do you recall those questions?

8 A. I recall that he asked me questions but not the specific
9 questions.

10 Q. Now, Mr. Collyard did not ask you about the
11 circumstances under which you would create those flowcharts.
12 Please explain to the jury the circumstances of when you
13 would take the step of creating a flowchart.

14 A. A flowchart is only something I would do for complex
15 cases where it was hard to visualize what was going on in
16 the activity without a visual aid.

17 Q. At what step would you be creating the flowchart?

18 A. As part of the case.

19 Q. As part of the case. So, again, we talked about
20 adjudication. So would this have been once the adjudication
21 of the alert had completed and then the decision would have
22 been to escalate the alert to a case?

23 A. Yes.

24 Q. Were you able to do this sort of flowchart analysis for
25 every alert that you reviewed?

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1 A. No.

2 Q. Why not?

3 A. That would have taken too long, and we were supposed to
4 make risk-based decisions.

5 Q. What do you mean?

6 A. Risk-based decisions.

7 Q. Same question. What do you mean?

8 A. That the amount of research and work we would do on a
9 case would be related to how suspicious it was.

10 Q. So we talked about how long it took you to prepare the
11 diagram that we're looking at. How long did it take you to
12 prepare the entire case write-up?

13 A. A week.

14 Q. Looking at the diagram again, Plaintiff's Exhibit 333 at
15 page 21 and again at Plaintiff's Exhibit 411 at page 1,
16 could you have prepared the diagram without having the
17 information about the Ponzi scheme that became public in
18 late September 2008?

19 A. No.

20 Q. After you completed your case write-up, tell the jurors
21 what steps you took next.

22 A. I sent it for manager review and spoke to Bernita about
23 the case.

24 Q. What's manager review?

25 A. That's the step where any case, before it would go to

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1 the SAR Review Committee, would be reviewed by the manager.

2 Q. How did the SARs Committee react to your case report?

3 To be clear, I'm not asking you what anyone said. I'm
4 asking you how did the SAR Committee react to your case
5 report.

6 A. So I read my case and discussed the visual aids that I
7 had made, and there was complete silence, just shock.

8 Q. What do you mean that there was shock?

9 A. They were shocked at how complex and large the activity
10 within the case was.

11 Q. What information do you know now that you did not know
12 when you were previously adjudicating the PCI alerts before
13 the FBI raid in 2008?

14 A. All of the information that came out about the fraud.

15 Q. The PCI fraud?

16 A. Yes.

17 Q. Based on the information that was available to you as an
18 AML analyst between 2005 and 2008 before the FBI raid, would
19 the outcome of the alert review had been any different?

20 A. Can you repeat that?

21 Q. Sure. So based on the information that was available to
22 you as an analyst before the FBI raid in September of 2008,
23 would the outcome of the alert review of transactional
24 activity related to the PCI account had been any different?

25 MR. COLLYARD: Objection.

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1 THE WITNESS: No.

2 MR. COLLYARD: Speculative.

3 THE COURT: Overruled. She may answer if she can.

4 THE WITNESS: No.

5 BY MS. MOMOH:

6 Q. Why do you say this?

7 A. Because what made it suspicious was the information
8 about the fraud.

9 Q. Because what made it suspicious was the information
10 about the fraud. Because it made it suspicious. What's the
11 "it"?

12 A. The transaction activity.

13 Q. Ms. Pesch, to your knowledge, was anyone in the AML
14 Monitoring Group ever arrested or charged with involvement
15 in the PCI Ponzi scheme?

16 A. No.

17 Q. And, again, you were a member of the AML Monitoring
18 Group at the time, right?

19 A. Yes.

20 Q. To your knowledge, was anyone in the AML Monitoring
21 Group at M&I or BMO involved in the PCI Ponzi scheme?

22 A. No.

23 Q. To your knowledge, did anyone in the AML Monitoring
24 Group know there was a Ponzi scheme happening before it was
25 discovered by the authorities in 2008?

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1 MR. COLLYARD: Objection, speculation, Your Honor.

2 THE WITNESS: No.

3 THE COURT: Overruled. You may reframe the
4 question. I'm sorry. Sustained. You may reframe the
5 question.

6 BY MS. MOMOH:

7 Q. Ms. Pesch, are you aware of anyone at M&I or BMO being
8 involved in the PCI Ponzi scheme?

9 A. No.

10 Q. To your knowledge, are you aware of anyone at M&I or BMO
11 knowing that there was a PCI Ponzi scheme happening before
12 it was discovered by the authorities in 2008?

13 A. No.

14 MR. COLLYARD: Objection, speculation, Your Honor.

15 THE COURT: Overruled. She is testifying about
16 what her knowledge is.

17 MS. MOMOH: If I may repeat the question,
18 Your Honor, and then the answer?

19 THE COURT: I don't think there's a need for
20 repetition --

21 MS. MOMOH: Sure.

22 THE COURT: -- so, no.

23 BY MS. MOMOH:

24 Q. Ms. Pesch, what is your answer to my question as to
25 whether, based on your knowledge, did anyone at M&I or BMO

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1 know that there was a PCI Ponzi scheme happening before it
2 was discovered by the authorities in 2008?

3 A. No.

4 Q. What, if anything, did you ever receive of monetary
5 value from the PCI Ponzi scheme?

6 A. Nothing.

7 Q. Remember when Mr. Collyard showed you a group of checks
8 on Friday?

9 A. Yes.

10 Q. Did Mr. Collyard show you any checks or wire transfers
11 that went from PCI to M&I?

12 A. No.

13 Q. Did Mr. Collyard show you any checks or wires that went
14 from PCI to any M&I or BMO employee?

15 A. No.

16 MS. MOMOH: Your Honor, I have no further
17 questions for the witness at this time.

18 THE COURT: Are there any further questions for
19 this witness?

20 MR. COLLYARD: Yes, Your Honor.

21 **RECROSS-EXAMINATION**

22 BY MR. COLLYARD:

23 Q. Good morning, Ms. Pesch.

24 A. Good morning.

25 Q. I welcome you back too.

1 A. Thank you.

2 Q. Just talk a little bit about the analysis that you did
3 after Tom Petters was arrested. You were just talking with
4 your counsel about it.

5 Do I understand this correctly that you based your
6 information as to whether or not the activity was suspicious
7 on the fact, for example, that Nationwide and Enchanted were
8 wholesalers who were supposedly selling fake products to
9 Petters Company, Inc.?

10 A. Can you repeat your question, please.

11 Q. Yeah. Was one of the reasons why you concluded that the
12 activity was suspicious when you did your analysis after Tom
13 Petters was arrested the fact that Nationwide and Enchanted,
14 the two wholesalers, were supposedly selling Tom Petters --
15 or Tom Petters was supposedly buying TVs, for example, from
16 those two wholesalers and those were phony transactions?

17 A. That was a part of the information -- the new
18 information that we found.

19 Q. And the reason why also you concluded that the activity
20 was suspicious was because it had been revealed to the world
21 that there was a Ponzi scheme; is that right?

22 A. There -- sorry, can you repeat that.

23 Q. Yes. Was another reason why you concluded that that
24 activity was suspicious because it had been revealed to the
25 world that there was a Ponzi scheme and you had seen that in

1 articles and news media coverage; is that right?

2 A. That was part of it, yes.

3 Q. The transaction data that you looked at when you looked
4 at the transaction data from January of 2008 up through
5 August of 2008, that data didn't change, did it?

6 A. No, it did not.

7 Q. All of that data was exactly the same, correct?

8 A. All the transaction data was the same.

9 Q. So your analysis was based on the same exact transaction
10 data that M&I once concluded was not suspicious, correct?

11 A. That was part of the analysis.

12 Q. And you said that you presented this to the SAR
13 Committee and they were just shocked over how big it was and
14 the volume of it, right?

15 A. How complex it was.

16 Q. I'm talking about the data. Were they shocked over how
17 big the data was?

18 A. They were shocked over how complex it was.

19 Q. How complex the scheme was?

20 A. Yes.

21 Q. Okay. Were they shocked at how big the data was?

22 A. That's not how I remember it.

23 Q. Because you had access to all the data, right?

24 A. I had access to the transaction data.

25 Q. Is there a difference between the data and the

1 transaction data?

2 A. The information in the articles and the subpoena is
3 different than the transaction data, yes.

4 Q. I understand. Put what the world found out and the
5 media aside. M&I Bank, BMO Bank now, had access to all of
6 the billions of dollars going in and out of that account,
7 right?

8 A. We had access to the transaction data, yes.

9 Q. What was the committee's comment when they looked at the
10 data and learned that billions and billions and billions of
11 dollars were going in and out of the account?

12 A. I don't remember specific comments on that.

13 Q. Other than the fact that there was a Ponzi scheme
14 revealed to the world -- okay? -- was there anything else
15 that made you conclude that that activity that you could see
16 every single day was suspicious?

17 A. There was a lot of information about the parties
18 involved and how they interacted with each other to commit
19 the fraud that was not available before.

20 Q. I'm asking you: Other than the information that was
21 revealed to the world about the Ponzi scheme, was there
22 anything else that you used to conclude that that activity
23 that you could see every single day for the billions of
24 dollars going in and out was suspicious?

25 A. I feel like I remember that prior to the raid -- or the

1 raid and the new information coming out, like I said, all
2 the information that we were finding online was positive;
3 and after that, in addition to the information about the
4 fraud, there was additional information that was brought to
5 light about other negative things in Tom Petters' past or
6 his business associates' past.

7 Q. So you made your conclusions based on what you learned
8 in the media about what was happening with the fraud, not on
9 the transaction data that was in front of you; is that what
10 you're saying?

11 A. We made our decision that it was suspicious based on the
12 new information when we used that to look at -- combined
13 with the transaction activity.

14 Q. And one of the pieces of information was who Nationwide
15 and Enchanted were and what they were doing, correct?

16 A. That was included in the information.

17 Q. And when you were back looking at that transaction data,
18 at any time from 2005 through 2008, you could have figured
19 out and known who Nationwide and Enchanted were and what
20 they were doing, correct?

21 MS. MOMOH: Objection, Your Honor, argumentative
22 and speculative.

23 THE COURT: Sustained.

24 BY MR. COLLYARD:

25 Q. Let me back up, then. During 2005 through 2008, could

1 you have researched Nationwide?

2 A. Yes.

3 Q. Could you have researched Enchanted?

4 A. Yes.

5 Q. And could you have asked the business bankers, for
6 example, any question about why billions of dollars were
7 coming in from Nationwide, for example?

8 A. Yes.

9 Q. And could you have asked the business bankers any
10 question as to why billions of dollars were coming in from
11 Enchanted, for example?

12 A. Yes.

13 Q. All of that information you had the ability to go out
14 and seek, right?

15 A. Yes.

16 Q. And let me ask you this: Did you know -- let me ask you
17 this: What specifically did you know about Enchanted and
18 Nationwide when you were adjudicating your alerts on the
19 Petters Company, Inc. account?

20 A. I don't remember.

21 Q. What specifically did you do to go out and look and see
22 who Enchanted was, for example?

23 A. I don't remember.

24 Q. What specifically did you do to go out and look and see
25 who Nationwide was, for example?

1 A. I don't remember.

2 Q. And you had the ability to ask any questions you wanted
3 about any of that, right?

4 A. Can you clarify what you mean by "that"?

5 Q. Yes. You had the ability to go and do additional
6 research or ask additional questions about any one of those
7 entities at any time, correct?

8 A. I'm -- can you please clarify what you're asking in
9 regards to questions? Who would I be questioning?

10 Q. Who could you question if you had a question about
11 Nationwide or Enchanted?

12 A. They weren't clients of the bank.

13 Q. Let's back up. You just told me that you could have
14 picked up the phone and called the business bankers and
15 asked questions about Nationwide and Enchanted, right?

16 A. I don't -- I don't remember the exact wording of your
17 question or how I answered it, but if they were not clients,
18 that doesn't mean that the bank would have information about
19 them.

20 Q. I'm sorry, Ms. Pesch. I'm not -- let me be more clear
21 on my question. And I am trying to not duplicate some of
22 the things we've talked about, but I may have to do a little
23 bit of duplication to give you the comfort level that you
24 are asking me for, okay?

25 What I'm talking about is from 2005 up through

1 2008, you saw that there were billions of dollars in wires
2 from Nationwide and Enchanted, right?

3 A. Yes.

4 Q. And you could have picked up the phone, for example, and
5 called the business banker or the customer relationship
6 manager for the Petters Company, Inc. account and asked them
7 anything you wanted to know about Nationwide or Enchanted,
8 true?

9 A. I could have questioned them about their client and
10 their client's activity.

11 Q. I'm sorry, Ms. Pesch. You could have picked up the
12 phone and called the business banker and asked, for example,
13 who is Nationwide, right?

14 MS. MOMOH: Objection, Your Honor, asked and
15 answered, argumentative.

16 THE COURT: Overruled. You may answer if you can.

17 THE WITNESS: I could have asked the banker about
18 their client and their client's transaction activity.

19 BY MR. COLLYARD:

20 Q. You could have asked them -- my specific question,
21 Ms. Pesch is: You could have asked who is Nationwide,
22 right?

23 MS. MOMOH: Objection, Your Honor, asked and
24 answered, argumentative.

25 THE COURT: Overruled.

1 THE WITNESS: We would ask questions about the
2 client and their transaction activity, not about parties
3 that weren't clients of the bank.

4 BY MR. COLLYARD:

5 Q. Ms. Pesch, I'm just asking you if it's something that
6 you could have done. We'll use Enchanted, for example.
7 Could you have picked up the phone and called the business
8 banker and said, Who is Enchanted?

9 A. They weren't a client of the bank. We would -- if we
10 contacted the banker, we would have asked about their client
11 or their transaction activity --

12 Q. Ms. Pesch --

13 A. -- not about a party that's not a client.

14 Q. -- is it possible, is it possible that you could have
15 picked up the phone and called the business banker and
16 asked, Who is Enchanted?

17 A. If you're asking if I could have spoken the words, I
18 could have spoken the words, but they were not a client of
19 the bank. We would have asked about their client or the
20 client's transaction activities.

21 Q. You could have also picked up the phone and asked, What
22 does Enchanted do? Right?

23 A. We would have asked them about their clients or the
24 client's transaction activities, not parties that were not
25 clients of the bank.

1 Q. I'm sorry, Ms. Pesch. Let me -- maybe I'm not being
2 clear. Let me try this like this: While you were reviewing
3 your transaction activity and you were seeing the billions
4 of dollars from Enchanted, you could have, if you were
5 questioning anything about those wires, called the business
6 banker and just simply asked the business banker, Do you
7 know what Enchanted does or who they are?

8 A. We could have --

9 MS. MOMOH: Objection, Your Honor, asked and
10 answered, argumentative, vague as to time.

11 THE COURT: Overruled. You may specify the time.

12 MR. COLLYARD: The time frame is 2005 to 2008.

13 I'm sorry, Your Honor.

14 BY MR. COLLYARD:

15 Q. Could you have done that, Ms. Pesch?

16 A. We would have -- if we contacted a banker, it would have
17 been to discuss their client or the client's transaction
18 activities, not parties that were not clients of the bank.

19 Q. Did anything preclude you from picking up the phone and
20 calling a business banker and saying, What does Enchanted
21 do? They are wiring billions of dollars in.

22 A. We could have asked about specific transactions.

23 Q. Did anything preclude you from specifically asking the
24 business banker, What does Enchanted do?

25 A. It was not our practice to ask a banker about parties

1 that were not clients of the bank.

2 MR. COLLYARD: Your Honor, move to strike.

3 THE COURT: Overruled. Denied.

4 BY MR. COLLYARD:

5 Q. Could you have picked up the phone and asked the
6 business bankers why it is that Enchanted or Nationwide were
7 wiring in all of this money?

8 A. It was not our practice to ask a banker about parties
9 that were not clients of the bank.

10 Q. Was it possible for you to pick up the phone and ask
11 that simple question?

12 A. I could have spoken those words if that's what you're
13 asking, but that was not -- it was not our practice to ask a
14 banker about parties that were not clients of the bank.

15 Q. In the past when you were reviewing or adjudicating
16 other alerts, you had actually picked up the phone and
17 called business bankers or customer relationship managers to
18 ask specific questions, right?

19 A. Yes.

20 Q. And, in fact, in the past you have asked questions about
21 who was wiring money into an account before, haven't you?

22 A. We've asked about specific transactions on accounts,
23 yes.

24 Q. Okay. And so let's bring it back, then. Looking at --
25 I'll bring it back to the transactions on the two alerts

1 that you did on 60827 and 64556. You saw that billions of
2 dollars were coming in from Nationwide and Enchanted. You
3 could have picked up the phone and called the business
4 bankers and asked the business bankers specific questions
5 about those transactions, including information about why
6 Enchanted and Nationwide were wiring that money in, correct?

7 A. We -- there's multiple parts to that. Could you break
8 it up, please?

9 Q. Let me ask you -- let's just pause here for a second,
10 okay. If the business banker or the customer relationship
11 manager didn't have the answer to the question that you were
12 reaching out and asking about -- okay? -- the business
13 relationship manager could then ask the customer questions,
14 correct?

15 A. Yes.

16 Q. And the customer then would get back to the business
17 banker, right?

18 A. Yes.

19 Q. And then the business banker would get back to you with
20 your answers, right?

21 A. Yes.

22 Q. And that was a process that you followed at the bank,
23 correct?

24 A. Yes.

25 Q. You actually did that in real life when reviewing and

1 adjudicating alerts, didn't you?

2 A. When applicable, yes.

3 Q. And so now if you want me to bring it back, now we'll
4 unpack it. In this particular case, if we follow those
5 three steps, you could have called the business bankers and
6 asked them questions about the activity you were seeing with
7 respect to Nationwide and Enchanted, right?

8 A. Can you repeat that?

9 Q. Yes. You could have -- I'm not saying you did. I'm
10 just asking: You could have called the business bankers and
11 asked them questions about the transaction activity with
12 respect to Nationwide and Enchanted, right?

13 A. Yes.

14 Q. And then they could have picked up the phone and called
15 Tom Petters and asked Tom Petters any questions that you
16 actually wanted answered about Enchanted and Nationwide,
17 right?

18 A. Yes.

19 Q. And then business bankers could have gotten back to you
20 and said, Here's what Tom says, right?

21 A. Yes.

22 Q. Now, in that particular situation, then you analyze --
23 you being the AML analyst, you analyze, Hmm, is there a
24 legitimate business purpose for this, does this feel right,
25 is this interesting; am I right?

1 A. Those are questions that could be considered.

2 Q. And you as the AML analyst, you actually make the
3 decision and you actually make the determination as to
4 whether or not that is a legitimate explanation or if it
5 leads to having reason to suspect that there's suspicious
6 activity, right?

7 A. Yes.

8 Q. And that is your decision to make, correct?

9 A. Yes.

10 Q. So let's say the business bankers come back to you and
11 they say, Here's what Tom says. Here's what I think. Okay?
12 Are you with me?

13 A. I'm sorry. Can you repeat that?

14 Q. Yeah. Let's say you've asked the business banker the
15 questions. They've reached out to Tom Petters. Tom Petters
16 comes back to the business bankers, and the business banker
17 says to you, Here's what I think. Okay?

18 A. Okay.

19 Q. You don't take that at face value. You actually then
20 analyze it and you actually make the determination, correct?

21 A. Yes.

22 Q. Now, if you can go back to -- go back to Exhibit 183.
23 So you are going to have to find my exhibits now out of the
24 binders.

25 And just to remind you that Exhibit 183 are the --

1 it's the audit trails or the comments that you had put in
2 when you closed exhibit -- or when you closed Alert 60827
3 and 64556, for example. Do you see that?

4 A. Can you give me the page number, please?

5 Q. I will. We will go to Alert 60827 to start. It's
6 Exhibit 183, page 26. Are you there?

7 A. Yes.

8 Q. Okay. Now, you talked about with your counsel how you
9 distinctly remember back in 2005 seeing a magazine article;
10 is that right?

11 A. That was not the year.

12 Q. So the magazine article that you were being questioned
13 about, you didn't see that in 2005 or 2006?

14 A. It was dated 2006.

15 Q. You remember as you're sitting here today you actually
16 going back and seeing a magazine article from 2006 about Tom
17 Petters?

18 A. I do.

19 Q. Now, did you use -- and you talked about how that talked
20 about the Petters family of businesses and things like that;
21 is that right?

22 A. Yes.

23 Q. The Petters Company, Inc. account -- I had asked you a
24 question about this before. And the Petters Company, Inc.
25 account belongs to the Petters Company, Inc., right?

1 MS. MOMOH: Objection, Your Honor, vague as to
2 time.

3 THE COURT: Overruled. You may answer if you can.

4 THE WITNESS: Can you repeat your question?

5 BY MR. COLLYARD:

6 Q. Yes. The Petters Company, Inc. account belongs to the
7 Petters Company, right?

8 A. Yes.

9 Q. It does not belong to any other Petters businesses,
10 right?

11 A. Correct.

12 Q. And the alerts that you were reviewing and investigating
13 were for the Petters Company, Inc. business, correct?

14 A. I believe multiple of his companies alerted.

15 Q. Ms. Pesch, I'm talking about in Exhibit 183, the alerts
16 that you adjudicated for 60827 and 64556, those were on the
17 Petters Company, Inc. account, right?

18 A. For those alerts, yes.

19 Q. For all of Exhibit 183, this is the Petters Company,
20 Inc. account, correct?

21 A. I have not looked through every alert on here in this
22 exhibit.

23 Q. Okay. I don't want us to spend time going through every
24 single alert on here. Let's just stick on the two that you
25 did right now. You agree with me that you're only looking

1 at alerts on the Petters Company, Inc. account, right?

2 A. For these alerts, yes.

3 Q. Now, when you're looking at alerts for the company where
4 the alerts are generated, you consider that company, right?

5 A. Yes.

6 Q. And that's the best practice is to consider the company
7 that alerted, not some other company that the client could
8 be affiliated with, correct?

9 A. Depends on what's in the alert.

10 Q. When you adjudicate the alerts, you adjudicate it based
11 on the company that alerted; am I right?

12 A. That would be the focus, but it could expand based on
13 what's in the alert.

14 Q. Now, you remember seeing an article back in 2006. Do
15 you remember adjudicating these alerts?

16 A. No.

17 Q. Do you remember what you thought when you adjudicated
18 these alerts?

19 A. No.

20 Q. So really all you're talking about is you had an
21 impression of Tom Petters back in 2006; is that right?

22 A. I remember those magazines specifically because he was
23 on the cover of every magazine and it reminded me of Oprah
24 and Oprah's magazines, so that stuck out in my mind.

25 Q. I got it. But you didn't use that information for the

1 basis of concluding that the activity in the alerts for
2 60827 and 64556 was not suspicious, did you?

3 A. The fact that he was on the covers and it reminded me of
4 Oprah, no, I did not include that in any analysis.

5 Q. The thought of Petters being this big guy and having all
6 these companies, that didn't go into your analysis to
7 conclude that the activity was or was not suspicious?

8 A. Sorry. Can you repeat that?

9 Q. Yes. The information about Tom Petters and the impact
10 it had on you as to what type of companies he was involved
11 in or how big of a role he had as a businessman, that did
12 not go into your analysis when you determined whether or not
13 the activity on 60827 or 64556 was suspicious?

14 A. I remember those magazines covering multiple Petters
15 companies.

16 Q. Sure. And all I'm asking, Ms. Pesch, is: You didn't
17 use that as any basis to conclude whether or not the alerts
18 for these two alerts, 60827 or 64556, were or were not
19 suspicious?

20 A. I used that as -- when I was researching the owner of
21 the companies, that was information that I took into
22 consideration about the legitimacy of those companies.

23 Q. Did you use your magazine articles or anything that you
24 learned about Petters Company, Inc. through your magazines
25 to determine whether or not the alerts on 60827 or 64556

1 were or were not suspicious?

2 A. I would have used those magazines in combination with
3 other research to determine if I felt they were legitimate
4 companies. So, yes, I would have included that as part of
5 my consideration in working alerts.

6 Q. Did you -- I'm asking you very specifically: Did you
7 use that information to conclude that the activity in these
8 alerts were not suspicious?

9 A. I don't remember these specific alerts, so I guess I --
10 I don't remember in relation to these specific alerts what I
11 looked at.

12 Q. And you don't mention -- if you go to 60827, for
13 example, you don't mention anything about the magazine
14 article that you saw, right?

15 A. No.

16 Q. And if you would have relied on that or used that, you
17 would have mentioned that in your comments section, right?

18 A. Not necessarily.

19 Q. Well, do you believe it would be important to list the
20 things that you would consider in making your determination
21 as to whether or not the activity is suspicious or not?

22 A. I list "See Petters.com for more information," and I
23 remember getting those magazines from the company's website.

24 Q. Okay. But you don't list anything about the magazines
25 in your comments, do you?

1 A. Specifically, no.

2 Q. And this is Petters.com, not PettersCompanyInc.com,
3 right?

4 A. Yes.

5 Q. And, in fact, you remember that we had this -- the
6 PowerPoint presentation that we went through -- and it was
7 Exhibit 4 -- where we were talking about best customer
8 syndrome. Do you remember that?

9 A. Yes.

10 Q. And specifically you focus on the activity and not on
11 the customer. Do you remember that?

12 A. Yes.

13 Q. And that is a principle that is followed in the
14 Anti-Money Laundering Group, correct?

15 A. Yes.

16 Q. When you're determining whether or not something is
17 potentially suspicious, you actually look at and dig into
18 the activity instead of focusing on who the customer is,
19 right?

20 A. You look into both, but you can't only focus on who the
21 customer is.

22 Q. And focusing on the activity is a heck of a lot more
23 important than focusing on saying, Oh, he's a big customer,
24 or, He's a well-known guy, right?

25 A. I would say learning about the customer is important, as

1 is the transaction activity.

2 Q. So you don't remember specifically what you did to
3 investigate 60827; is that right?

4 A. In relation to the specific alert, no.

5 Q. Do you remember -- if you turn to 64556, it's on page 37
6 of Exhibit 183. Do you remember what you did specifically
7 at all or just generally to review the alert for 64556?

8 A. I remember that it was my practice when reviewing alerts
9 to review the parties. So generally, as my practice, I
10 remember that; but in terms of this specific alert, I don't
11 remember what I did to work that alert.

12 Q. And you don't remember how you came to reach any of your
13 conclusions in Alert 60827 or 64556?

14 A. Beyond what's written, no, I don't remember.

15 Q. Let's go to -- I want to go back to -- I believe it was
16 on Friday you had talked with your counsel about information
17 in Searchspace. Do you remember talking about the
18 transaction data that you had access to in Searchspace?

19 A. Yes.

20 Q. Is that right? I just want to be clear and make sure I
21 understand is that you have access to other information
22 outside of Searchspace as well when you're reviewing and
23 adjudicating an alert, right?

24 A. Yes.

25 Q. Including we talked about -- we were talking about how I

1 have a checking account and credit card statements. You had
2 access to the bank statements for the customer as well,
3 correct?

4 A. Yes.

5 Q. And those bank statements gave information about who was
6 wiring the money in, for example, and other additional
7 information, like note numbers, right?

8 A. Not that I remember.

9 Q. You don't remember that?

10 A. I don't remember originators being listed on bank
11 statements.

12 Q. Let's -- I'm sorry, let's go back to -- let's stick on
13 Exhibit 183, then. Let's go to page 26, just so we can get
14 there, if I can find this.

15 Now that we've got that alert up, let's go to page
16 28, and we're going to go to the top box where we're talking
17 about the incoming wires, and I'm going to blow that up.
18 And then we're going to get the box below it as well just so
19 we can see it.

20 Okay. So let's just refresh a little bit what we
21 were talking about before, Ms. Pesch. We've got incoming
22 wires totaling \$2.5 billion, right?

23 A. Yes.

24 Q. And then you list some of the names, including
25 Enchanted, correct?

1 A. Yes.

2 Q. Now you say, "Some wires reference note numbers." Do
3 you see that?

4 A. Yes.

5 Q. So how would you access wires that reference note
6 numbers?

7 A. Through wire data from the system that I referenced last
8 week that -- where you could get that more comprehensive
9 wire information.

10 Q. Ms. Momoh was asking you questions earlier about checks
11 that have memos in them, right?

12 A. Yes.

13 Q. And this would be similar to the wire that has a memo in
14 it. Would that be a fair way of saying that?

15 A. Yes.

16 Q. So in this particular alert, you actually, when you were
17 looking at the \$2.5 billion coming in, you actually would
18 have done some other analysis to see, for example, that the
19 wires had note numbers; is that fair?

20 A. Yes.

21 Q. Do you recall what those note numbers were?

22 A. No.

23 Q. Do you recall why you were referencing the note numbers
24 here in your comments?

25 A. No.

1 Q. You also talked about how you populated a spreadsheet.
2 When you were -- let me back up. I think it was in respect
3 to Alert 64556, if we can go to that alert on page 37. Are
4 we there?

5 A. Page 37, yes.

6 Q. Yes. Your counsel was asking you questions about what
7 could you see in your computer and what could you review and
8 have access to. Do you remember that?

9 A. I don't remember the exact wording of the question.

10 Q. Do you remember questions along those lines?

11 A. Yes.

12 Q. And I believe you said that you would see a list of data
13 that listed all the transactions, and you would need to get
14 it out of Searchspace into an Excel spreadsheet. Do you
15 recall that?

16 A. Yes.

17 Q. And that's what you would do, is you would take
18 information out of Searchspace and put it into a
19 spreadsheet?

20 A. We would export it out of Searchspace and it would go
21 into Excel.

22 Q. Let's go to Exhibit 186, please.

23 I'm sorry, Ms. Pesch, because we're going to --
24 I'm going to ask you about dates and then we're going to
25 have to go back. So let me just first do the dates, and

1 then we'll go to this exhibit. Sorry.

2 If you look at the alert for 64556, and let's get
3 our dates right, so it's Exhibit 183, page 37.

4 A. Okay.

5 Q. And if we look at the top there, it's March of 2006. Do
6 you see that?

7 A. Yes.

8 Q. And then you also in the first box, if we go down below
9 to the first box, you also included another alert for 66209
10 for the month of April of '06, right?

11 A. Yes.

12 Q. The alerted period or review period was March of '06
13 through April of '06; is that true?

14 A. Yes.

15 Q. Okay. Now let's go to Exhibit 186. Are you at 186 yet?

16 MS. MOMOH: Your Honor, may we have a sidebar,
17 please?

18 THE COURT: You may.

19 **(At sidebar)**

20 MS. MOMOH: I don't believe Exhibit 186 is in
21 evidence.

22 MR. COLLYARD: It's not. I am going to admit it
23 into evidence.

24 MS. MOMOH: But you just flashed it on the screen.

25 MR. COLLYARD: I did not. It was 183 that we put

1 up on the screen. We haven't gone to 186.

2 MS. MOMOH: I just saw 186 on the screen,
3 Your Honor.

4 MR. COLLYARD: Oh, well, I didn't see that. I'm
5 sorry. I'll make sure that it's not published until it's
6 admitted.

7 THE COURT: Counsel --

8 MS. MOMOH: It was published.

9 MR. COLLYARD: Yeah, I didn't mean to.

10 THE COURT: -- do not publish the exhibits until
11 they are admitted into evidence.

12 MR. COLLYARD: Yeah, absolutely.

13 THE COURT: Listen to me, both of you, that's --

14 MR. COLLYARD: Yeah. Yes.

15 THE COURT: -- improper.

16 MR. COLLYARD: Absolutely, yes.

17 THE COURT: Okay.

18 MR. COLLYARD: Yeah.

19 MS. MOMOH: Will there be some sort of correction
20 for the jurors for seeing this?

21 THE COURT: I think we are not going to draw
22 additional attention to this matter --

23 MS. MOMOH: Understood.

24 MR. COLLYARD: Okay.

25 THE COURT: -- so, no.

1 **(In open court)**

2 MR. COLLYARD: May I proceed, Your Honor?

3 THE COURT: You may.

4 BY MR. COLLYARD:

5 Q. Okay, Ms. Pesch, we are going to go to Exhibit 186.

6 You're going to be able to see it in front of you. You're
7 going to be able to see it on the screen. I am not going to
8 put it up on the screen just yet. Can you take a look at
9 Exhibit 186 and tell me what that is?

10 A. It looks like transaction activity from Searchspace.

11 Q. Does this look like the Excel spreadsheet that you would
12 have exported from Searchspace?

13 A. Yes.

14 Q. And if we look down below in the lower left bottom
15 there, it says, "Petters incoming wires.Csv." Do you see
16 that?

17 A. Yes.

18 Q. And CSV is a type of file; is that right?

19 A. Yes.

20 Q. What does that mean?

21 A. I don't remember what it stands for.

22 Q. This Exhibit 186 is an example of the Excel spreadsheet
23 that you would create; is that right?

24 A. That I would export out of Searchspace.

25 Q. That you would export out of Searchspace, yes?

1 A. Yes.

2 Q. Sorry. I am going to keep screwing that up.

3 Did you create Plaintiff's Exhibit 186?

4 A. I don't know.

5 Q. You may have?

6 A. I don't remember.

7 Q. It certainly looks like a spreadsheet that you would
8 have exported out of Searchspace, correct?

9 A. It looks like transaction activity exported out of
10 Searchspace, and I would export transactions out of
11 Searchspace.

12 Q. If we go to the upper right-hand corner, do you see
13 there's a "Tran Date"? Do you see that?

14 A. Yes.

15 Q. It lists a date for March 1st of 2006, for example; is
16 that right?

17 A. It looks like it.

18 Q. Yes. If you go to the left, it's got originator and
19 beneficiary information; is that right?

20 A. Yes.

21 Q. And then to the left of that it has "Credit Party Name,"
22 and it says, "Petters Company, Inc"; is that right?

23 A. Yes.

24 Q. Okay.

25 MR. COLLYARD: Your Honor, offer Exhibit 186.

1 MS. MOMOH: Objection, Your Honor, lack of
2 foundation.

3 THE COURT: Overruled.

4 MS. MOMOH: Your Honor, objection -- withdrawn.

5 MR. COLLYARD: Permission to publish, Your Honor?

6 THE COURT: Let me ask you, how much more are we
7 going to do with this exhibit and this witness? I'm asking
8 just for the break purposes.

9 MR. COLLYARD: Oh.

10 THE WITNESS: Either we will go now or we will go
11 at 10:30?

12 MR. COLLYARD: Oh, we're going to start to get
13 into this exhibit a little bit if you would like to go now,
14 Your Honor.

15 THE COURT: Members of the Jury, we will take our
16 midmorning break now.

17 THE CLERK: All please rise for the jury.

18 THE COURT: Please remember my instructions, and I
19 know you will follow them. Thank you. Let's be prepared to
20 return at 10:35.

21 (Jury excused)

22 **IN OPEN COURT**

23 **(JURY NOT PRESENT)**

24 THE COURT: And to our witness, you are free to
25 take a break as well from your testimony. Please, though,

1 because you are on the stand giving testimony, you are not
2 to consult about your testimony during the break. Okay?

3 We are in recess.

4 (Recess taken at 10:22 a.m.)

5 * * * * *

6 (10:39 a.m.)

7 **IN OPEN COURT**

8 **(JURY PRESENT)**

9 THE COURT: You may be seated.

10 Counsel, there's one issue we need to address
11 before we resume the questioning of this witness. Exhibit
12 186 is not in evidence, is it?

13 MR. COLLYARD: I had offered it, Your Honor, and
14 then we paused for the break.

15 THE COURT: I didn't hear you.

16 MR. COLLYARD: I had offered it into evidence and
17 then we paused for the break.

18 THE COURT: Okay. Exhibit 186 is received.

19 MR. COLLYARD: Thank you, Your Honor.

20 BY MR. COLLYARD:

21 Q. Ms. Pesch, if we can take a look at Exhibit 186, we'll
22 pull it up here. And this is the spreadsheet -- this is an
23 Excel spreadsheet that was exported from Searchspace; is
24 that right?

25 A. Yes.

1 Q. And if we can just get familiar a little bit with it, if
2 we look up at the top, we see the originator and
3 beneficiary. Do you see that?

4 A. Yes.

5 Q. And if we go down a little bit and just highlight kind
6 of the first block of entries there, are these -- is this
7 showing that there were incoming wires from Enchanted Family
8 Buying Company and Nationwide International Resources, for
9 example?

10 A. Yes.

11 Q. And if we look to the right, it shows the amounts; is
12 that right?

13 A. Yes.

14 Q. And we talked before about transaction data and we were
15 talking about picking up the phone and calling the business
16 bankers to ask them questions, and you told me you could ask
17 them questions for sure about the transaction data. Do you
18 remember that?

19 A. Yes.

20 Q. And this would be the transaction data, right?

21 A. Yes.

22 Q. So if we see up at the top, we've got Enchanted for a
23 wire of \$15.7 million; is that right?

24 A. Yes.

25 Q. And the date of that wire is March 1st of 2006; is that

1 correct?

2 A. It looks like it, yes.

3 Q. And you remember I told you before we'd go to this.

4 We've got to get the dates figured out on the Alert 64556.

5 Do you remember that?

6 A. Yes.

7 Q. And the dates for the Alert 64556 was March and April of

8 2006. Do you remember that?

9 A. Yes.

10 Q. And so these wires here would be reflective of the wires

11 that were adjudicated and reviewed in Alert 64556, correct?

12 A. Can you give me a minute, please?

13 Q. Sure.

14 (Witness reviews document)

15 A. Yes, they look like wires from that time frame.

16 Q. And so what we have here, these are all for March 1st of

17 2006. Let's just go through a few of these just so we can

18 get a feel of this. We'll add some more in. Let's go to

19 March 2nd, for example, and we'll just get a feel for what

20 you could see.

21 And then this is -- if we see here that the second

22 block that we just put up, the top couple are from

23 Enchanted, right?

24 A. Can you please clarify which --

25 Q. Yes, the second block, the block that I just put up with

1 all of the Enchanted and Nationwide wires. Do you see that?

2 A. Yes.

3 Q. And if we look to the right -- I am just trying to get
4 the dates. We see the first block dealt with March 1st.

5 Then this block deals with March 2nd; is that correct?

6 A. It appears so.

7 Q. So these are all wires that you could -- these are all
8 wires from March 2nd that came in from Enchanted and
9 Nationwide, right?

10 A. Yes.

11 Q. And to the far right, if we look -- sorry -- if we back
12 up and just take the first two from Enchanted and then we
13 look to the right, we see Enchanted wired in on that day \$25
14 million even, correct?

15 A. Yes.

16 Q. And then down below, the next one Enchanted wired in \$13
17 million even, right?

18 A. Yes.

19 Q. And those are round numbers, right?

20 A. Yes.

21 Q. Now, if we go to the Nationwide ones, we see the first
22 one Nationwide wired in 8.8 million, right?

23 A. Yes.

24 Q. And then the next one is for 5 million; is that right?

25 A. Yes.

1 Q. And then we see a series below for 4.5 million; is that
2 true?

3 THE COURT: I didn't hear your answer.

4 THE WITNESS: You're close. Those aren't the
5 exact values, but they're close.

6 BY MR. COLLYARD:

7 Q. Do you see the one down there for \$4.54 million? Do you
8 see that?

9 A. Yes.

10 Q. And then the one below is \$4.484 million. Do you see
11 that?

12 A. Yes.

13 Q. Okay. Do you remember yesterday -- I think it was
14 yesterday. It might have been the day before. I'm sorry.
15 It was not yesterday. It would have been Monday -- it would
16 have been Friday. I'm so sorry. It would have been Friday.

17 I told you about Nationwide and I said, Hey, if we
18 look at the way that the Nationwide numbers are, they are
19 always ending in hundred dollar values. Do you see that?
20 Do you remember us talking about that?

21 A. I remember discussing round transactions. I don't
22 remember the specifics.

23 Q. On all the Nationwide numbers that you see on the
24 screen, are they all ending in hundred dollar values?

25 A. Yes.

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1 Q. None of them have any cents, correct?

2 A. Correct.

3 Q. If we just stick on -- I'm just going to do a few more
4 of these just to get a sense. If we go down to -- we will
5 bring in March 3rd now. Now we have March 3rd. We have an
6 Enchanted wire on March 3rd for \$40,617,542.83, correct?

7 A. Yes.

8 Q. These are wires or this is the transaction data that you
9 had and you could see, correct?

10 A. Yes.

11 Q. And this is how it appeared in the spreadsheet that you
12 would look at when you were determining whether or not this
13 activity was potentially suspicious?

14 A. It was similar to this. I don't remember this specific
15 file and how it specifically was used, but this is an
16 example of the wire data, yes.

17 Q. And then on the bottom of the page we have another one
18 from Nationwide for \$3.153 million; is that right?

19 A. Yes.

20 Q. And if we just -- let's just do another. Let's go to --
21 let's skip ahead to March 9th, if we can find that. It's on
22 Exhibit 186, page 2 at the very bottom. I'm going to go
23 down to the bottom on that page, Ms. Pesch, and grab the
24 ones from March 9th and see if we can pop them up.

25 Do you see there's Enchanted wiring in on March

1 9th \$27.9 million? Do you see that?

2 A. Yes.

3 Q. And then again Nationwide, Nationwide, and Nationwide.
4 Do you see those?

5 A. Yes.

6 Q. Those are for 5.3 million, 5.2 million, and 4.87
7 million, right?

8 A. Yes.

9 Q. And, again, those Nationwide wires all end in hundred
10 dollar values, correct?

11 A. Yes.

12 Q. Does that appear to be a pattern?

13 A. Possibly.

14 Q. Let's jump ahead to March 15th, which is going to be
15 Exhibit 186, page 3, towards the middle. If we can just
16 grab some of those. And we see Enchanted has a wire on
17 March 15th for 23.5 million; is that right?

18 MS. MOMOH: Your Honor, may we have a sidebar,
19 please?

20 THE COURT: What's the grounds for the objection?

21 MS. MOMOH: Beyond the scope of defendant's
22 examination, cumulative, and is prejudicial under 403.

23 THE COURT: Counsel?

24 MR. COLLYARD: Your Honor, Ms. Pesch testified to
25 counsel's own questions about a spreadsheet and talked about

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1 the data that she could see; the data in Searchspace, the
2 data outside of Searchspace. It was a big topic that
3 counsel raised, so I am asking to look at the data that
4 Ms. Pesch testified to.

5 MS. MOMOH: And, Your Honor, if I may be heard, I
6 did not question Ms. Pesch on any sort of spreadsheet, and I
7 certainly did not show this exhibit to her. And, in fact,
8 we never offered it during my examination. Sidebar?

9 THE COURT: Yes.

10 **(At sidebar)**

11 MS. MOMOH: So, again, under 403, this is
12 prejudicial. It's cumulative. We will be here until
13 Thanksgiving if he continues with this line of questions.
14 The document speaks for itself.

15 MR. COLLYARD: Your Honor, Ms. Momoh made a point
16 to go through and talk to her about what she could see and
17 what she couldn't see. I have the ability to cross-examine
18 her on what she testified to that she actually can see and
19 what she did. She testified to this spreadsheet. She did
20 it herself.

21 THE COURT: And the spreadsheet is in evidence.
22 The objection is overruled. I will ask counsel to be
23 mindful of the amount of time that the questioning is taking
24 and the effect on the jury.

25 MR. COLLYARD: Understood. And I don't plan on

1 spending too much time to it, but I'm going to loop this
2 back into a crucial part of the case.

3 THE COURT: That's fine. I'm not preventing you
4 from doing anything. I'm offering --

5 MR. COLLYARD: I'll be mindful, yes.

6 THE COURT: -- advice and letting you know that
7 the jury has -- we are asking members of this community
8 to --

9 MR. COLLYARD: Understood, Your Honor.

10 THE COURT: -- spend a lot of time here, and let's
11 use it wisely.

12 MR. COLLYARD: Yes. Thank you.

13 **(In open court)**

14 BY MR. COLLYARD:

15 Q. I'm sorry, Ms. Pesch. We are going to go back to
16 Exhibit 186 on page 3, and we were looking at March 15th for
17 the Enchanted wire of \$23.5 million. Do you see that?

18 A. Yes.

19 Q. And, again, that is the information that you had access
20 to, right?

21 A. Yes.

22 Q. I'll just do -- I will just do two more quick ones here.
23 If we just jump to March 23rd, which is on page 4 of Exhibit
24 186 at the very bottom or towards the bottom, and do you see
25 that these are wires on March 23rd for Enchanted for 34.4

1 million? Do you see that?

2 A. Yes.

3 Q. And then again we have the Nationwide wires all ending
4 in hundred dollar values, correct?

5 A. Yes.

6 Q. Those are for millions of dollars, right?

7 A. Yes.

8 Q. Do one more. Skip to page 8, it's at the very bottom,
9 and it's for April of '06, just so we can cover the time
10 frame for Alert 64556. We see we have an Enchanted wire for
11 \$24.9 million, right?

12 A. Yes.

13 Q. And then down below we've got Nationwide wire for \$9.27
14 million. If I can just move my blue arrow out of the way so
15 you can see it. We have another Nationwide wire for 3.3
16 million, correct?

17 A. Yes.

18 Q. And, again, all ending in hundred dollar values, right?

19 A. For which party?

20 Q. For Nationwide.

21 A. Yes.

22 Q. Again, so this was the transaction information that you
23 had that you could look into further if you chose, correct?

24 A. If we determined to, yes.

25 Q. Now, if we added up all of these numbers in this

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1 spreadsheet -- and I actually have the native file. If we
2 need to do this, we could do this. If we added up all of
3 the numbers in the spreadsheet, Ms. Pesch, do you know what
4 the total would be if we added up all the numbers in the
5 spreadsheet?

6 A. I don't know. I have not reviewed all the numbers.

7 Q. If I told you that's \$1.46 billion, would that help
8 refresh your recollection?

9 A. I still wouldn't remember, no.

10 Q. Do you have any reason to disagree with me if I told you
11 that it was \$1.46 billion?

12 A. I would go back to the alert comments to check.

13 Q. I'm just asking you if you would have any reason to
14 disagree -- if we added up these totals, if you would have
15 any reason to disagree that this would show that there was
16 \$1.46 billion of incoming wires coming into the account?

17 A. You told me the last time we met you weren't good at
18 math, so I would probably want to double-check.

19 (Laughter)

20 Q. You want to check it. I actually have the native file
21 and we can do this in just a few minutes, and it will go to
22 some more questions that I have about Enchanted and
23 Nationwide so it's probably helpful if we do that. I can do
24 it really quickly. The native file was produced by
25 defendants in this case. We have it, and I can show you

1 that.

2 So what I would like to do is then take you to the
3 native file, which we will call Exhibit 186-A, and I will
4 check your math with you -- or we will check my math.

5 Sorry.

6 MS. MOMOH: Your Honor, we object to this. This
7 exhibit was not disclosed to us. We haven't had a chance to
8 review it. I'm also not familiar with what he is referring
9 to as far as a native file for this exhibit.

10 MR. COLLYARD: It's the native file that the
11 defendants produced in this case, Your Honor; that this is a
12 PDF of it is essentially what it is. This being Exhibit 186
13 is a PDF. We can't manipulate the PDF. So we have the
14 native file, which is what the defendants produced in the
15 case, and I can pull the native file up right here and just
16 do a quick calculation to show these numbers to speed it up.

17 MS. MOMOH: Your Honor, we still object. This was
18 not disclosed to us as one of the exhibits that plaintiff
19 would be showing or offering or using for purposes of
20 Ms. Pesch's examination.

21 THE COURT: The objection is sustained. The
22 testimony stands.

23 BY MR. COLLYARD:

24 Q. Ms. Pesch, if you added up -- if we can go back to
25 Exhibit 186 and we added up all of the incoming wires from

1 Enchanted and Nationwide, do you know how much money
2 Enchanted and Nationwide wired in during this time period?

3 A. No.

4 Q. If I told that you that it was a billion dollars, would
5 that help refresh your recollection?

6 A. No.

7 Q. And if I told you it was -- that your spreadsheet here,
8 if we added up the Enchanted and Nationwide numbers, if that
9 totaled a billion dollars, would you have any reason to
10 disagree with me?

11 A. Something I would probably like to do on my own, but I
12 can't add that up on my own here sitting here.

13 MR. COLLYARD: Your Honor, I can just show it to
14 her and I can do it with her real quickly without publishing
15 it to the jury.

16 MS. MOMOH: Your Honor, I would object to that as
17 well.

18 THE COURT: The witness's answer stands.

19 BY MR. COLLYARD:

20 Q. Ms. Pesch, if Enchanted -- I'm sorry. I told you before
21 if we added it up it would be \$1.46 million total. Do you
22 remember that?

23 A. If we added what up?

24 Q. If you added up all the numbers in your chart here, if
25 it would be \$1.46 billion. Do you remember I told that you?

1 A. Okay, yes.

2 Q. Let's take that number and let's just check my math a
3 little bit, and let's go to your Alert 64556 and go to --
4 it's Exhibit 183, and it's page 38. And it's in the middle
5 of the page there in that block where it starts out,
6 "Account Number [REDACTED] 9018." And that's the incoming wires, do
7 you see, listed for \$1.463,587 billion, right?

8 A. Yes.

9 Q. And so you would have -- would you have gotten that
10 number that you wrote in these comments from this
11 spreadsheet?

12 A. Yes.

13 Q. And so then you could have also taken this spreadsheet
14 and added up the Enchanted and Nationwide numbers very
15 quickly, right?

16 MS. MOMOH: Objection, Your Honor, asked and
17 answered, argumentative.

18 THE COURT: Overruled. You may answer if you can.

19 THE WITNESS: Can you repeat the question?

20 BY MR. COLLYARD:

21 Q. Sure. You list here the incoming wires, and you
22 actually list Enchanted and Nationwide. If we just bring in
23 the block below, I will show you. You actually say, "Most
24 wires were from Enchanted, Nationwide." Do you see that?

25 A. Yes.

1 Q. And what I'm asking is: You could have gone to your
2 spreadsheet that we just talked about in Exhibit 186 and
3 added up the transaction data from Enchanted and Nationwide
4 to see that they had wired in a billion dollars, correct?

5 A. Yes.

6 Q. And you didn't note anywhere in here that Enchanted and
7 Nationwide wired in a billion dollars, did you?

8 A. No.

9 Q. And I'll tell you I'm at least as good at math to say
10 that 1 billion out of 1.463 is about 75 percent. Do you
11 trust me on that?

12 MS. MOMOH: Objection, Your Honor, calls for
13 speculation, argumentative.

14 THE COURT: Overruled. If she can answer, she
15 will answer.

16 THE WITNESS: I couldn't tell you the percentage,
17 exact percentage.

18 BY MR. COLLYARD:

19 Q. Well, you said most of the wires were from Enchanted and
20 Nationwide, right?

21 A. Yes.

22 Q. And you agree that 1 billion out of 1.46 billion would
23 be most; is that right?

24 MS. MOMOH: Objection, Your Honor. Same
25 objection.

1 THE COURT: Overruled.

2 THE WITNESS: Could you repeat your question?

3 BY MR. COLLYARD:

4 Q. Yes. Sorry. I'm just trying to figure out if you agree
5 with me that if Enchanted and Nationwide were wiring in \$1
6 billion and you've listed the total of \$1.463 billion, you
7 would agree with me that Enchanted and Nationwide had wired
8 in most of the money?

9 A. Yes.

10 Q. And if Enchanted and Nationwide are wiring in most of
11 the money for a billion dollars, would that have been at
12 least activity that would have been interesting for you to
13 go and look at further, Ms. Pesch?

14 A. I don't remember all the details of this case or what I
15 was thinking at the time of this case, so I can't say.

16 Q. So you can't say whether or not you actually looked at
17 the fact that most of the wires were coming in from
18 Nationwide and Enchanted and thought that could be a pattern
19 of unusual activity that I should look into a little bit
20 further?

21 A. I don't remember the exact steps that I took when
22 reviewing this alert.

23 Q. And do you remember how we talked about checks, and you
24 were talking about how -- you used the term "majority of the
25 checks deposited appear to be for Disney on Ice," and

1 Ms. Momoh asked you about Disney on Ice? Do you remember
2 that?

3 A. Yes.

4 Q. And just like how you said that the majority of checks
5 appeared to be for Disney on Ice, you certainly could have
6 said that most of the wires or the percentage of wires came
7 in from Nationwide and Enchanted and provided information
8 about Nationwide and Enchanted, right?

9 A. Well, I did say most of the wires were from Enchanted
10 and Nationwide, as well as a couple other businesses.

11 Q. Do you say what the wires were for from Enchanted or
12 Nationwide?

13 A. No.

14 Q. But you gave more information, for example, on the
15 checks about them being for Disney on Ice than you did for
16 the majority of the wires coming in or the billion dollars
17 that was coming in from Enchanted and Nationwide, right?

18 A. I wouldn't necessarily agree with that.

19 Q. Well, on the checks you explain that they were for
20 Disney on Ice, right?

21 A. Yes.

22 Q. What are the wires from Enchanted and Nationwide for?

23 A. That's not detailed, but I listed a number of the
24 originators of the wires and I did not list the originators
25 of the checks.

1 Q. I understand. I'm just simply asking if you agree that
2 you gave more detail for what the checks were being used for
3 than you did for what the incoming wires were for.

4 A. Yes.

5 Q. Nothing precludes an AML analyst from going in and
6 explaining more information on the incoming wires, correct?

7 A. It was our practice to make risk-based decisions about
8 how much information to add.

9 Q. Nothing precluded you from adding more information,
10 correct?

11 A. Again, we would make risk-based decisions regarding
12 adding extra comments.

13 Q. Was there some preclusion or did something prohibit you
14 from explaining more about what those wires were for?

15 A. It was our practice to make risk-based decisions when
16 adding extra comments.

17 Q. Okay. But on top of that, I'm just trying to figure out
18 if there was anything that said you can't do that. Was
19 there anything that said you can't go on and explain, for
20 example, if there's a billion dollars in wires, you can't go
21 on and explain why there's actually a billion dollars of
22 wires coming in?

23 A. No.

24 Q. And when you say it's all "risk based," what do you mean
25 by that?

1 A. That we would take additional steps based on identifying
2 suspicious factors.

3 Q. And if a billion dollars was coming into an account from
4 two entities, would that go into your risk analysis as to
5 whether or not that would be something interesting enough to
6 maybe take a little bit further look into?

7 A. That would be included.

8 Q. And did you do that here?

9 A. I don't remember what I did here.

10 Q. You could have done that?

11 A. Yes.

12 Q. And if you would have -- let me ask you this: So this
13 is Alert 64556, and this is March and April of 2006, right?

14 A. Yes.

15 Q. Now, you had access to all of the alerts before that too
16 when you were doing this alert, correct?

17 A. Yes.

18 Q. And you would actually go and look at all of those
19 alerts before this one, right?

20 A. Yes.

21 Q. That was part of the procedures that you would follow,
22 would be to go and look at and see and understand the other
23 alerts, true?

24 A. Yes.

25 Q. And so if you would have seen that there were billions

1 and billions of dollars in those other alerts, and then in
2 the alerts that you did you could see that billions of
3 dollars were coming in from two entities, would that have
4 added to your risk-based analysis as to whether or not
5 something was interesting or unusual to look into it
6 further?

7 A. Can you repeat that?

8 Q. Sure. If you had seen billions and billions and
9 billions of dollars from the other alerts, and you would
10 have seen that there were billions of dollars coming in from
11 two entities on your alerts as well, would that have gone
12 into your risk-based analysis as to whether or not that type
13 of activity was at least interesting or unusual enough to
14 look into further?

15 MS. MOMOH: Objection, Your Honor, compound
16 question with respect to the use "interesting" or "usual" --

17 THE COURT: Overruled. You may answer if you can.

18 THE WITNESS: I would have been going off of the
19 comments and analysis entered in the previous alerts. So if
20 that wasn't in the alerts, I likely wouldn't have noticed
21 it.

22 BY MR. COLLYARD:

23 Q. Did you have access to the transaction data going back
24 for the other alerts as well?

25 A. I don't remember how far the transaction data went back

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1 in Searchspace.

2 Q. You don't know if it went back to 2005?

3 A. I don't remember how long -- I know it was a rolling
4 period of time.

5 Q. Well, if you go to Alert 53247, and it's Exhibit 183,
6 page 6, do you see that? Are you there, Ms. Pesch?

7 A. Yes.

8 Q. If we look at the top, it says March of 2005. Do you
9 see that?

10 A. Yes.

11 Q. Do you have an understanding that this was the first
12 alert that was alerted on the Petters Company, Inc. account?

13 A. I don't remember.

14 Q. Do you agree with me that this is an alert on the
15 Petters Company, Inc. account for the alerted month of March
16 of 2005?

17 A. Yes.

18 Q. And if we just look down below, grab the first two
19 blocks, just take a quick look at it, pull those up, and you
20 see the name P. Currie-Smotherman. Do you see that?

21 A. Yes.

22 Q. That's Patricia Currie-Smotherman; is that right?

23 A. Yes.

24 Q. She was an anti-money laundering analyst in the group;
25 is that right?

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1 A. Yes.

2 Q. And then if you look to -- let's just go to the second
3 block where it says, "Wire activity does not appear
4 suspicious." Do you see that?

5 MS. MOMOH: Objection, Your Honor, beyond the
6 scope of my examination with Ms. Pesch.

7 THE COURT: Overruled.

8 BY MR. COLLYARD:

9 Q. Do you see that, Ms. Pesch?

10 A. Yes.

11 Q. And in order to adjudicate this alert, there would have
12 to have been transaction data available, right?

13 MS. MOMOH: Objection, Your Honor, calls for
14 speculation.

15 THE COURT: Overruled.

16 THE WITNESS: At the time this alert was worked,
17 that transaction data would have been available. I don't
18 remember how long that transaction data was kept in
19 Searchspace, so at the time of subsequent alerts, I can't
20 say what transaction data would have been available to me at
21 that time.

22 BY MR. COLLYARD:

23 Q. If I'm hearing you correctly, is what you're saying is
24 you think it may be possible that there was transaction data
25 available to adjudicate the alert in March of 2005, but that

1 transaction activity data would have somehow been gone by
2 the time you got to your alerts in November of 2005?

3 A. I remember the transaction data being available for a
4 rolling period of time. So I would have had access to old
5 comments through an alert history like this, but I wouldn't
6 have access to all the transaction data over the history of
7 the account.

8 Q. Would you have access to this audit trail or these
9 comments in Searchspace?

10 A. Yes.

11 Q. So you could have seen then, for example, this is the
12 first alert that it says, "Wire activity does not appear
13 suspicious." Right?

14 A. Yes.

15 Q. Thank you. Can you tell how or -- I'll keep it single
16 questions. Can you tell how it was that
17 Ms. Currie-Smotherman determined that the wire activity does
18 not appear suspicious?

19 MS. MOMOH: Objection, Your Honor, calls for
20 speculation.

21 THE COURT: Overruled. She may answer if she can.

22 THE WITNESS: I would have to go off the comments
23 entered in this alert.

24 BY MR. COLLYARD:

25 Q. And going off the comments entered into this alert by

1 reading these comments right here, can you tell how it was
2 that Ms. Currie-Smotherman determined that the activity was
3 not suspicious?

4 A. Can you give me a moment to read it?

5 Q. Sure.

6 (Witness reviews document)

7 A. Okay. Can you repeat your question now?

8 Q. Yes. Can you determine by reading the comments in this
9 alert how Ms. Currie-Smotherman determined that the activity
10 does not appear suspicious?

11 A. I can read her comments, but I can't see what she was
12 thinking.

13 Q. So you can't -- it's okay, Ms. Pesch. I'm not trying to
14 quibble with you on this. I'm just trying to see if you can
15 read her comments and tell me how it is that she concluded
16 that the activity does not appear suspicious.

17 THE COURT: Counsel, the question has been asked
18 and answered. Move on.

19 BY MR. COLLYARD:

20 Q. Can you tell by reading these comments why, why the
21 activity does not appear suspicious?

22 A. It appears that she's listing details about the wires
23 and using that to make her decision.

24 Q. Are there any details about the wires that we can read
25 from these comments?

1 A. Who the wires are going to and from.

2 Q. And is there any more specifics beyond that?

3 A. No.

4 Q. Just beyond reading then these particular words, we
5 can't determine as the reader of these comments why the
6 activity does not appear to be suspicious; is that fair?

7 A. I would say she gives information and -- including who
8 the wires are from and going to, and that -- through that
9 she's decided that it's not suspicious.

10 Q. And is that all we have to go off of, based on these
11 comments?

12 A. Based off of what's written.

13 Q. And, again, this is what you would have had access to
14 when you were reviewing your alerts, and you actually would
15 have reviewed this, right?

16 A. I would have had access to this, yes, and reviewed
17 things like this. I don't remember what I looked at when I
18 worked my alert.

19 Q. So then we got here because we were talking about how
20 you would do your risk-based analysis. Do you remember
21 that?

22 A. Yes.

23 Q. And so these comments here, would that factor into -- so
24 we've got these comments here and we've got the fact that
25 you could see billions of dollars were coming in on the

1 alerts that you did. Would all of that come together into
2 your risk-based analysis as to whether or not you would
3 think looking into the -- looking more into the Nationwide
4 and Enchanted wires that were for billions of dollars, would
5 that be a factor in that?

6 A. That would be potentially part of it, but not all of it.

7 Q. So let's just go back, then, to -- just a couple more
8 questions on your alerts and we'll close this up.

9 But if we go back to Alert 64556.

10 A. Page number, please?

11 Q. Yes. I'm sorry. Exhibit 183, page 37. Thank you.

12 I had asked you -- I believe we had talked about
13 the use of the funds of the money going out of the account,
14 and I want to ask you now based on what you have just
15 testified to about the money coming into the account. If we
16 go back on page 38 to the \$1.463 billion of incoming wires,
17 can you tell, Ms. Pesch, by reading your comments, why the
18 \$1.46 billion is being wired into the account?

19 A. Can you clarify what you mean by "why"?

20 Q. Yeah. The reasons for why the \$1.46 billion is being
21 wired into the account.

22 A. I don't see the purpose of the wire.

23 Q. So, again, is it just beyond the comments -- beyond the
24 comments that are written here, you can't tell the jury why
25 the \$1.46 billion is being wired into the account; is that

1 true?

2 A. Based on what's written here, no.

3 Q. Ms. Pesch, a few questions just on Nationwide and
4 Enchanted again.

5 Do you know what the legitimate business purpose
6 was for any wire from Enchanted, for example?

7 A. I don't --

8 MS. MOMOH: Objection, Your Honor, vague as to
9 time.

10 THE COURT: Overruled.

11 THE WITNESS: Can you repeat that?

12 BY MR. COLLYARD:

13 Q. Yes. Do you know what the legitimate business purpose
14 was for any wire that came in from Enchanted?

15 A. I don't remember.

16 Q. Do you know if you figured out whether or not there was
17 a legitimate business purpose for any wire coming in from
18 Enchanted?

19 A. I don't remember.

20 Q. And do you know what the legitimate business purpose was
21 for any wire coming in from Nationwide?

22 A. I don't remember.

23 Q. And do you know if you tried to figure out what the
24 legitimate business purpose was for any wire coming in from
25 Nationwide?

1 A. I don't remember.

2 Q. I want to go -- we can go off of this right now and
3 let's go to Exhibit 398. It's Plaintiff's Exhibit 398. Are
4 you there, Ms. Pesch?

5 A. Yes.

6 Q. If we go to -- just generally on Plaintiff's Exhibit
7 398, counsel had asked you questions about these guidelines
8 in Exhibit 398. Do you remember that?

9 A. Which counsel?

10 Q. Ms. Momoh.

11 A. Yes.

12 Q. And you had testified, and I believe this is what you
13 said, on Exhibit 398 you said, "I remember referring to this
14 very frequently as I was working alerts. Oftentimes I had
15 it right next to my keyboard." Do you remember saying that?

16 A. Yes.

17 Q. So you're familiar with Exhibit 398, correct?

18 A. I don't have it memorized, but I'm familiar with it,
19 yes.

20 Q. Do you remember when I was asking you questions about --
21 I had showed you -- I had shown you Exhibit 182 and we were
22 trying to figure out what "peer" meant, and we were showing
23 the comparison between the money that was being wired in
24 compared to the peer averages?

25 A. Can you please show me 182 again?

1 Q. Sure. Are you at Exhibit 182?

2 A. I see it on the screen.

3 Q. Oh, good. So let's go to -- we'll stick on our Alert
4 64556, just to do it that way, and it's Exhibit 182, page
5 42. Is that on your screen?

6 And if you recall, I was asking you questions
7 trying to figure out the money being wired in compared to
8 the average. Do you see that?

9 I will describe it better for the jury and for the
10 record. If we go down, do you see the -- let's focus on the
11 incoming wire deposit. Do you see that?

12 A. I see the words "Incoming Wire Deposit."

13 Q. And to the right of it, it has a value of
14 \$839.6 million, right?

15 A. Yes.

16 Q. And that would be the total of the incoming wires that
17 were alerted for your Alert 64556 for the month of March of
18 2006, correct?

19 A. Probably.

20 Q. Any reason to disagree with me?

21 A. Other than the fact that I haven't looked at Searchspace
22 alerts or worked with them in a long time, that's roughly
23 what I remember. But -- I guess I'm not entirely certain.

24 Q. I am going to expand my screen so I can get the
25 left-hand side of it to see where it says, "Peer Monthly

1 Value Event." Do you see that?

2 A. Yes.

3 Q. Now if we look to the right -- so if we look to the
4 right of the \$839 million and you see the average of 5.78
5 million, do you see that?

6 A. Yes.

7 Q. Do you have an understanding that what this document is
8 doing is it's taking the actual incoming wires and comparing
9 it to the average of the peers?

10 A. I don't remember exactly how I would read and understand
11 this information. When I look at this, I just see "Average
12 Value/Volume." It doesn't clarify whose average value or
13 volume.

14 Q. Does it make sense that what this is doing is taking the
15 wires coming in and comparing it to the average peers?

16 A. It's hard to say when that's not titled. It just says,
17 "Average Value/Volume."

18 Q. So if we go back to Exhibit 398, then, your guideline
19 that you had by your keyboard, and take a look at page 5 of
20 Exhibit 398. If we go down to the -- Ms. Momoh was asking
21 you if this was a list or a checklist. Do you remember
22 that?

23 A. Yes.

24 Q. And if we go down to the second to the last -- what do
25 you want to call it? Should we call it an item?

1 A. Okay.

2 Q. Okay. We'll highlight that. It says, "If the account
3 is a security blanket alert and it is alerting at the peer
4 level." Do you see that?

5 A. Yes.

6 Q. And it says, "make sure the difference in activity in
7 that time period for the customer as compared to other
8 customers in the peer group is addressed." Do you see that?

9 A. Yes.

10 Q. And is what that is talking about is taking the, for
11 example, the incoming wires and comparing it to the peer
12 group?

13 A. Yes.

14 Q. And what are the -- what is the peer group?

15 A. Similar customers.

16 Q. And what were the similar customers -- what customers at
17 M&I Bank were similar to Petters Company, Inc.?

18 A. I don't remember.

19 Q. Do you remember how the peer group was defined?

20 A. No.

21 Q. Was it just any other customer in the business banking
22 group?

23 A. I don't remember.

24 Q. And what this is saying is you have to explain what the
25 difference is between the wires compared to the peers,

1 right?

2 A. If they alerted for wires, yes.

3 Q. So if we take it back, then, to Exhibit 183, which would
4 be your alert, and we will go to Alert 64556 again just to
5 keep using that as our example -- sorry. It's Alert 64556.
6 And if we go to page 39 in Plaintiff's Exhibit 183.

7 A. Okay.

8 Q. If we go to the very bottom block there, are you with
9 me, Ms. Pesch?

10 A. Yes.

11 Q. Okay. And it says, "Based on the review and analysis,
12 even though the incoming and outgoing wires are greater than
13 that of the other customers in the same peer group, the
14 activity is consistent and expected for this customer." Do
15 you see that?

16 A. Yes.

17 Q. And if we go back to Exhibit 182, then, at page 42, and
18 we will just pop that up again real quickly and look at the
19 incoming wires, just for the incoming wire portion with the
20 \$839 million going in, is that what you would have looked at
21 to make the determination in Plaintiff's Exhibit 183 that
22 the incoming wires are greater than the other customers in
23 the peer group?

24 A. I don't remember. Possibly.

25 Q. And if that's the case, Ms. Pesch, it's not -- you agree

1 that back to your comments, then, in Exhibit 183, page 39,
2 if we go to Exhibit 183, page 39, in that last block, based
3 on what we just saw in Exhibit 182, it's not only that the
4 difference is greater, it's greater by 800 and something
5 million dollars, correct?

6 A. I couldn't tell you the amount that it's greater.

7 Q. And do you -- if in Exhibit 398, if you are supposed to
8 explain the difference, what is the explanation for the
9 difference in the incoming wires compared to the peer group
10 for this particular alert?

11 A. Can you repeat your question?

12 Q. Yes. If Exhibit 398 requires you to explain the
13 difference or address the difference, what is the difference
14 between the amount of the incoming wires compared to the
15 peer group that is being compared to the Petters Company,
16 Inc.?

17 A. I don't remember.

18 Q. And when you say in this last block, Ms. Pesch, how
19 the -- when you say, "The activity is consistent and
20 expected for this customer," do you see that?

21 A. Yes.

22 Q. How are you concluding that the activity is consistent
23 and expected?

24 A. Beyond what's written in the comments, I don't remember.

25 Q. And you can't say why you're concluding that the

1 activity is consistent and expected for Petters Company,
2 Inc., correct?

3 A. Sitting here today, I don't remember.

4 MR. COLLYARD: I have no further questions,
5 Your Honor.

6 THE COURT: Anything further for this witness?
7 Anything further for this witness?

8 MS. MOMOH: Your Honor, I have no further
9 questions for the witness, but at this time I re-offer the
10 exhibits Defendant's Exhibit DX-80020 and Exhibit DX-80021
11 based on the redirect examination by Mr. Collyard,
12 plaintiff's counsel.

13 MR. COLLYARD: Same objection.

14 THE COURT: Let me just excuse the witness at this
15 time. She's excused.

16 MS. MOMOH: Sure.

17 THE COURT: Thank you.

18 THE WITNESS: Thank you.

19 THE COURT: Counsel, do you wish to be heard?

20 MR. COLLYARD: Oh, I'm sorry, Your Honor. Same
21 objections.

22 THE COURT: Sidebar.

23 **(At sidebar)**

24 THE COURT: Your objection post redirect?

25 MR. COLLYARD: I'm sorry, Your Honor?

1 THE COURT: Your objection post redirect?

2 MR. COLLYARD: Yes. I maintain the same
3 objections that I made when it was addressed, yes.

4 MS. MOMOH: I'm sorry. I didn't hear your
5 question.

6 THE COURT: I asked him the same objections post
7 redirect. Do you wish to be heard?

8 MS. MOMOH: Yes, Your Honor. I'm not trying to
9 examine the witness with respect to these two exhibits. As
10 I said, my only purpose is to re-offer these documents into
11 evidence based on the questions that Mr. Collyard had
12 already asked of Ms. Pesch. He asked her several questions
13 with respect to these two Petters Group magazines as to what
14 she saw, what impression it had made of her, why did she say
15 this with respect to celebrities, and whether she considered
16 the fact that there were celebrities in the magazine
17 impacting her decision when she was adjudicating the alerts
18 back in 2006.

19 He asked her several questions with respect to
20 that, Your Honor, and the content of these magazines, which
21 I actually did not even go into. So because he asked her
22 those questions, that opened the door to -- our position is
23 that it opened the door to the jurors being allowed to now
24 see these magazines because he asked her questions specific
25 with respect to what was in the magazines themselves.

1 MR. COLLYARD: I simply asked her questions based
2 on her testimony. I didn't show her the magazines. I
3 didn't talk to her anything beyond what she testified to.
4 She was allowed to talk about what she saw and you
5 established that with her when you asked her questions on
6 that, and I was simply responding to her answers.

7 THE COURT: And so you're seeking to have the
8 magazines themselves admitted into evidence?

9 MS. MOMOH: Yes, Your Honor.

10 THE COURT: That motion is denied. They are not
11 admitted into evidence.

12 MR. COLLYARD: Thank you, Your Honor.

13 **(In open court)**

14 MR. COLLYARD: Your Honor, plaintiff calls
15 adversely Mandy Ramlow, an employee of BMO Harris.

16 MS. PARLOVECCHIO: It will be just one moment,
17 Your Honor. She is indisposed.

18 (Pause)

19 COURT REPORTER: Please stand and raise your right
20 hand.

21 (Witness sworn)

22 COURT REPORTER: Could you state your name and
23 spell your first and last name.

24 THE WITNESS: Sure. My name is Mandy Ramlow.
25 First name is M-a-n-d-y. Last name is R-a-m-l-o-w.

1 THE COURT: Counsel, you may proceed. Good
2 morning.

3 MR. COLLYARD: Thank you, Your Honor.

4 (Mandy Ramlow)

5 CROSS-EXAMINATION

6 BY MR. COLLYARD:

7 Q. Good morning, Ms. Ramlow.

8 A. Good morning.

9 Q. We've met before, right?

10 A. We have.

11 Q. That was when I took your deposition in Milwaukee?

12 A. Correct.

13 Q. Are you currently still employed at BMO Harris Bank?

14 A. I am.

15 Q. And what is your current role?

16 A. Current role is managing director of the AML systems,
17 data, innovation, and operations teams.

18 THE COURT: Ms. Ramlow, I'm going to ask you to
19 move the base of the microphone closer to you so that we can
20 hear you a little bit better. And if you move the base,
21 then the mic will be closer as well.

22 THE WITNESS: Oh, sure. No problem. Is that
23 better?

24 THE COURT: Yes. You can move the base and then
25 you will be more comfortably seated I think.

1 THE WITNESS: Okay. No problem.

2 BY MR. COLLYARD:

3 Q. You have been working at the bank -- and I will call the
4 bank "bank" or "BMO Harris Bank," including "M&I" -- going
5 back to 1996; is that right?

6 A. January of 1996.

7 Q. You started working in the Anti-Money Laundering Group
8 in 2004, if I remember?

9 A. In June of 2004.

10 Q. You became an anti-money laundering analyst then?

11 A. Correct.

12 Q. And you worked in the Anti-Money Laundering Group from
13 2004 at least up through the time period of 2008; is that
14 right?

15 A. Yes.

16 Q. So let me just pause there. Did you go on and continue
17 to work in the Anti-Money Laundering Group at BMO Harris
18 Bank?

19 A. I did.

20 Q. What were your different roles in the Anti-Money
21 Laundering Group?

22 A. So I have been an analyst, a lead analyst, an
23 investigations unit manager. In 2014, I was a managing
24 director of the Financial Intelligence Unit for BMO Harris.
25 In 2018-'19, I became a managing director of the Financial

1 Intelligence Unit for the U.S. and Canada. And then most
2 recently in April of this year, I took on the new role.

3 Q. If we step back to the 2005 to 2008 time frame, you were
4 an AML analyst and a lead analyst; is that right?

5 A. So an AML analyst starting in June of 2004. By 2007, I
6 was a lead analyst; and then by 2008, I was a supervisor.

7 Q. In 2008, you were a supervisor in the Anti-Money
8 Laundering Group?

9 A. Yes.

10 Q. Who did you report to?

11 A. Bernita Hile.

12 Q. Was Bernita Hile also your boss when you were an
13 anti-money laundering analyst?

14 A. Yes.

15 Q. Was Bernita Hile the boss of all the anti-money
16 laundering analysts from 2005 to 2008?

17 A. When I took on the supervisor role, I had some of my own
18 directs that reported to me.

19 Q. Did Sara Johnson report to you?

20 A. In that period, I don't remember.

21 Q. Who reported to you?

22 A. I don't remember the names.

23 Q. So if we step back to 2005 to 2008, was the Anti-Money
24 Laundering Group five or six people?

25 A. In 2004, it was about three or four people. By 2008, it

1 was probably around 10 or 12 people.

2 Q. And do you remember -- do you know who Sara Johnson is,
3 for example?

4 A. Yes.

5 Q. You worked closely with Sara Johnson?

6 A. She was one of the analysts in the group.

7 Q. Did you work closely with her?

8 A. In what way?

9 Q. For example -- let me back up. Would the anti-money
10 laundering analysts, would they bounce ideas off of each
11 other and talk to each other about reviewing alerts and
12 their analysis?

13 A. We would talk to each other, yes.

14 Q. Did you ever talk with Sara Johnson, for example, about
15 any analysis that she was doing?

16 A. I would talk to her about work that she was doing at
17 times, yes.

18 Q. Do you recall if you ever talked to Sara Johnson about
19 doing alerts on the Petters Company, Inc. account?

20 A. No.

21 Q. You know that from 2005 up through 2008 that the
22 Anti-Money Laundering Group reviewed about 39 months' worth
23 of alerts on the Petters Company, Inc. account, right?

24 A. I don't know how many months it was.

25 Q. Do you have an understanding that it was about

1 three-and-a-half years long of alerts that you reviewed?

2 A. Do I understand how long three-and-a-half years is?

3 Q. Do you understand that there were about three-and-a-half
4 years of alerts going off on the Petters Company, Inc.
5 account?

6 A. I don't remember.

7 THE COURT: I'm having trouble hearing you, and
8 that's probably my problem, but it's an important problem
9 for me. So may I have you move the base so that --

10 THE WITNESS: Sure. Is this far enough?

11 THE COURT: That's much better. Thank you.

12 BY MR. COLLYARD:

13 Q. You're familiar with the Petters Company, Inc. account,
14 right?

15 A. Yes.

16 Q. And you're familiar with the Petters Company business?

17 A. What they were?

18 Q. Sure, what they were.

19 A. I remember what I thought they were at the time.

20 Q. And you remember what you thought they were from 2005 up
21 through 2008?

22 A. Yes.

23 Q. Do you have an understanding that billions of dollars
24 were going in and out of the account from 2005 through 2008?

25 A. I do now.

1 Q. You didn't know back then?

2 A. No, I didn't.

3 Q. That's a surprise to you?

4 A. Is it a surprise to me? No.

5 Q. I'm sorry. From the time period -- back when you were
6 in the Anti-Money Laundering Group from 2005 through 2008,
7 did you know that billions of dollars were being wired in
8 and out of the Petters Company, Inc. account?

9 A. I don't remember how much it was.

10 Q. Do you recall that it was in the area of billions of
11 dollars?

12 A. I don't remember.

13 Q. Do you recall that there were large amounts of money
14 going in and out of the account?

15 MS. PARLOVECCHIO: Objection, vague.

16 THE COURT: Sustained.

17 BY MR. COLLYARD:

18 Q. You don't recall any amount of money going in and out of
19 the Petters Company, Inc. account from 2005 through 2008?

20 A. I don't remember all the values, no.

21 Q. Do you remember any values?

22 A. Not really.

23 Q. Do you know, Ms. Ramlow, that you, yourself, closed
24 alerts on the Petters Company, Inc. account?

25 A. Yes.

1 Q. Do you understand that you closed seven alerts?

2 A. I don't remember how many.

3 Q. And do you have any understanding -- well, do you know
4 what the value of the incoming and outgoing wires were that
5 you, yourself, closed?

6 A. I don't remember them all.

7 Q. If I told you it was \$9.1 billion, would that help
8 refresh your recollection?

9 A. No.

10 MS. PARLOVECCHIO: Objection.

11 THE COURT: The answer stands.

12 BY MR. COLLYARD:

13 Q. I'm sorry. Did you say no?

14 A. No, I don't remember all the values.

15 Q. If I told you that it was \$9.1 billion of alerts that
16 you closed, would you have any reason to disagree with me?

17 MS. PARLOVECCHIO: Objection.

18 THE COURT: Overruled.

19 THE WITNESS: Can you ask the question again?

20 BY MR. COLLYARD:

21 Q. Sure. If I told you that you had actually reviewed and
22 closed \$9.1 billion of alerts on the Petters Company, Inc.
23 account, would you have any reason to tell me I'm wrong or
24 to disagree with me?

25 A. No.

1 Q. Do you agree, Ms. Ramlow, that one of the functions of
2 the Anti-Money Laundering Group was to identify suspicious
3 activity?

4 A. Correct.

5 Q. And included within identifying suspicious activity
6 would be identifying activity that would be indicative of
7 money laundering?

8 A. It would be looking for activity that would be
9 indicative, yes.

10 Q. And do you also agree with me that in identifying
11 whether or not there's suspicious activity, that could
12 include activity that could be or would be indicative of a
13 Ponzi scheme?

14 A. Could you state that again?

15 Q. Sure. When the -- as part of the Anti-Money Laundering
16 Group's function to identify suspicious activity, is part of
17 that also looking for activity that could be indicative of,
18 for example, Ponzi schemes?

19 MS. PARLOVECCHIO: Objection as to time frame.

20 THE COURT: Sustained. Set the time frame.

21 MR. COLLYARD: I will. Thank you, Your Honor.

22 BY MR. COLLYARD:

23 Q. So what I'm going to do is I will set the time frame
24 right now from 2005 up through 2008, and I am going to stick
25 in that time frame unless I tell you otherwise. Is that

1 fair enough?

2 A. Sure.

3 Q. So from 2005 through 2008, as part of the Anti-Money
4 Laundering Group's roles and responsibilities, was the
5 Anti-Money Laundering Group looking for, for example,
6 activity that could be indicative of a Ponzi scheme?

7 A. That would be a pattern that we would -- should be
8 looking for, yes.

9 Q. And do you -- and you know, Ms. Ramlow, that the Petters
10 Company, Inc. at one point in time had been found to -- Tom
11 Petters had been found to have been involved in a Ponzi
12 scheme?

13 A. I know now.

14 Q. When did you first find that out?

15 A. In the 2008 time frame.

16 Q. And, Ms. Ramlow, you don't recall what your reaction was
17 to first learning that, do you?

18 A. I believe I was likely shocked, confused.

19 Q. Ms. Ramlow, you don't remember what your reaction was
20 when you found out, do you?

21 A. I don't remember that day or that moment 16 or 18 years
22 ago.

23 Q. Have you heard of the term "willful blindness"?

24 A. Yes.

25 Q. You know what that means, right?

1 A. Yes.

2 Q. And that's a term that the Anti-Money Laundering Group
3 uses, correct?

4 A. It's a term used in the anti-money laundering industry,
5 yes.

6 Q. It's also a term used in the banking industry, true?

7 A. I don't know that.

8 Q. You don't know if, for example, the bank educates its
9 personnel on the concept of willful blindness?

10 A. Yes.

11 Q. The bank does educate its personnel on the concept of
12 willful blindness?

13 A. It's AML stuff, yes.

14 Q. Do you agree that willful blindness is if you see
15 something that's unusual and you don't look into it?

16 A. If you see something unusual and you don't look into it
17 and escalate it up and report it appropriately.

18 Q. Let me ask you it this way: Do you agree that willful
19 blindness is if you see something that's unusual and you
20 don't look into it, nothing else?

21 MS. PARLOVECCHIO: Objection, asked and answered.

22 THE COURT: Overruled. You may answer.

23 THE WITNESS: Could you ask that question again?

24 BY MR. COLLYARD:

25 Q. I will. Do you agree that willful blindness is if you

1 see something that's unusual and you don't look into it,
2 nothing else?

3 A. Sure.

4 Q. Is that a yes?

5 A. Yes.

6 Q. Sorry. I want to hand you or show you -- this is a
7 defendant's exhibit that I want to show you, and if we go
8 to -- you should have a binder there, and it should be at
9 the beginning of your binder. I want to bring you to
10 Exhibit DX-40067.

11 A. What was the number again?

12 Q. It's DX-40067.

13 A. I think I have it. DX-40067-0003?

14 Q. Yeah, you should have -- you should have, if you turn
15 that page on your left, I'm sorry, if you take it -- nope,
16 go back and grab the one before that. There you go. Take a
17 look at that. Now do you see that it's DX-0067-01 [sic] on
18 the bottom?

19 A. Yes.

20 Q. Okay. Now if you turn the page to page 2, you see
21 there's a PowerPoint or a slide presentation there, right?

22 A. I do.

23 Q. And it's called, "Bank Secrecy Act & Anti-Money
24 Laundering Compliance, Recognizing and Reporting Suspicious
25 Activity." Do you see that?

1 A. I do.

2 Q. Do you understand that there was an initiative at the
3 bank back in the 2004-2005 time period while you were in the
4 Anti-Money Laundering Group to educate employees on the
5 responsibilities or the importance of identifying and
6 reporting suspicious activity?

7 A. I do remember.

8 Q. What was the reason for that?

9 A. I don't remember.

10 Q. Do you recall that the Federal Reserve Bank of Chicago
11 had criticized the anti-money laundering program at the bank
12 back in 2003 or so?

13 MS. PARLOVECCHIO: Objection, foundation.

14 THE COURT: Sustained.

15 BY MR. COLLYARD:

16 Q. Do you know, Ms. Ramlow, that there was any -- do you
17 know that there was any commentary by the Federal Reserve
18 back in 2003 about the bank's anti-money laundering program
19 at the time?

20 A. I was an analyst, so I wasn't in on all those
21 conversations to know.

22 Q. And you don't know what led to the effort that the bank
23 put into to go out and educate its employees on the
24 importance of identifying and reporting suspicious activity
25 after 2003?

1 A. No.

2 Q. Nobody ever told you about that?

3 A. Not that I remember.

4 Q. If you take a look at this slide, let's just take a look
5 at it. If you go to, for example, page 5, it says, "Basic
6 Terminology." Do you see that?

7 A. I do.

8 Q. If you go to the next page, page 6, and it says, "Basic
9 Terminology, Bank Secrecy Act." Do you see that?

10 A. I do.

11 Q. You're familiar with these concepts, right?

12 A. I am.

13 Q. And you attended training back in the 2004 and 2005 time
14 period, right?

15 A. Yes, I would have.

16 Q. This is the type of training materials that you saw when
17 you attended that training session -- those training
18 sessions. Do you recall that?

19 A. I do.

20 MR. COLLYARD: Your Honor, offer Defendant's
21 Exhibit DX-40067.

22 MS. PARLOVECCHIO: No objection.

23 THE COURT: Defendant's Exhibit 40067 is received
24 into evidence.

25 BY MR. COLLYARD:

1 Q. We'll just go and we'll pull up the first page just
2 again to take a look at it to get us oriented here. This
3 was -- this is a PowerPoint for a training session to teach
4 about recognizing and reporting suspicious activity, right?

5 A. Yes.

6 Q. And back in -- we talked about the duties and the
7 responsibilities of the Anti-Money Laundering Group, and we
8 talked about how one of the functions was to identify
9 suspicious activity. Do you remember that?

10 A. I do.

11 Q. And another function was to actually report suspicious
12 activity; is that right?

13 A. Correct.

14 Q. And if we go to page 11, we have a slide that says,
15 "Basic Terminology, Suspicious Activity." Do you see that?

16 A. I do.

17 Q. In the middle bullet, "Has no apparent lawful purpose."
18 Do you see that?

19 A. Yes.

20 Q. And you understood while you were in the Anti-Money
21 Laundering Group that if there was transaction activity that
22 did not have an apparent lawful purpose, that that would be
23 activity that could potentially at least be suspicious,
24 right?

25 A. That was one item.

1 Q. And this PowerPoint actually has some notes that go
2 along with it, and I just want to take a look at the notes.
3 If we go down and we focus on the notes with this, we see
4 where it says, "We'll also use the terms 'interesting' or
5 'unusual activity.'" Do you see that?

6 A. Yes, I see it on the bottom of the page of the slide.

7 Q. And, Ms. Ramlow, you understand that the terms
8 "interesting" or "unusual" were common terms used with
9 identifying potentially suspicious activity, right?

10 A. It could be used. "Interesting" was not the same as
11 "suspicious," though.

12 Q. Was the term "interesting" used with the concept of
13 identifying potentially suspicious activity back in the
14 Anti-Money Laundering Group, to the best of your knowledge?

15 A. I don't remember using the word "interesting."

16 Q. You don't remember if something was interesting -- let
17 me back up. You don't remember that bank personnel were
18 taught that if something was interesting, that they should
19 think about looking into it further or look into it further?

20 A. I don't remember the training.

21 Q. What about the term "unusual?" If -- do you remember
22 that bank personnel were taught that if there was something
23 that appeared to be unusual, that that would be something
24 that they should look into further?

25 A. I do.

1 Q. Let's jump to page 16. I'm sorry. I'm on slide 16.
2 Let's jump to page 17, page 17 of the document, slide 16.
3 Do you see up at the top it says, "Risks of Non-Compliance"?
4 Do you see that?
5 A. I do.
6 Q. Let's go down to the notes. I just want to talk to you
7 about one of the notes again, just to clarify this. If we
8 pull it up in the middle there it says, "Explain willful
9 blindness." Do you see that?
10 A. I see it in the notes, yes.
11 Q. And the notes say, "Explain willful blindness -looking
12 the other way." Do you see that?
13 A. I do.
14 Q. And do you agree that another way to define willful
15 blindness is looking the other way?
16 A. Looking the other way and not reporting, yes.
17 Q. Let's go to page 20. This is slide 19. We'll just
18 start with the slide and then we'll focus on the comments.
19 And it says, "Don't Make Assumptions of Legitimacy - Know
20 Your Customer Well." Do you see that?
21 A. Yes.
22 Q. And you're familiar with the concept of "know your
23 customer," right?
24 A. In what context?
25 Q. In the context of banking, for example.

1 A. In what way?

2 Q. Well, did the bank have to know its customers?

3 A. It does as to follow "know your customer" procedures.

4 Q. And that's part of the AML Group. The AML Group has to
5 know their customers, right?

6 A. The AML Group? The bank has had to know their customers
7 when they're onboarding, and the AML Group had to understand
8 to the best of what was available to them.

9 Q. Ms. Pesch called it KYC. Do you know what KYC means?

10 A. "Know your customer."

11 Q. That's how you commonly referred to it at the bank is
12 KYC?

13 A. Correct.

14 Q. And you see that first topic there, it says, "Being
15 'familiar' with the customer isn't enough - 'Oh yeah, he
16 does that all the time.'" Do you see that?

17 A. I do.

18 Q. And that -- what is being taught there, you understand,
19 and you can tell me if you disagree, is that it's not good
20 enough just to be familiar with your customer and say, Oh,
21 they do it all the time. You can't make assumptions about
22 that. You have to actually look into it?

23 A. That's correct.

24 Q. And if we go down to the notes section, then. We will
25 do the first note that will -- we'll do the first note and

1 the last note. So we'll start with the first one. And it
2 says, this is the speaker notes, and it says, "Being
3 familiar is not the same as knowing your customer and what
4 their legitimate and expected activities are." Do you see
5 that?

6 A. I do.

7 Q. And as part of your work in the Anti-Money Laundering
8 Group, you would have to know what your customer's
9 legitimate and expected activities are, correct?

10 A. We would have to understand their activity, yes.

11 Q. And their activity is their business activity, correct?

12 A. It could be an individual or a business.

13 Q. Right. So if it was a business, it would be their
14 business activities, correct?

15 A. Yes.

16 Q. Petters Company, Inc. was a business, right?

17 A. It was a business.

18 Q. So under this notion, you would understand Petters
19 Company, Inc.'s business activities, correct?

20 A. To the best of our ability, yes.

21 Q. And we'll go down to the last note and we'll pull that
22 one up. And it reads, "Watch out for cases of promised 'big
23 deposits' or wires." Do you see that?

24 A. I do.

25 Q. And it says, "Where is the money coming from and why is

1 it coming to us?" Do you see that?

2 A. I see it.

3 Q. And those were concepts that were being taught to bank
4 personnel at the bank, right?

5 A. It was part of the training that was presented here.

6 Q. Was the training to teach the bank personnel these
7 concepts?

8 A. From the notes, yes.

9 Q. And you understood that there were times where, as in
10 the Anti-Money Laundering Group, you had to understand where
11 the money was coming in from and why it was coming in,
12 correct?

13 MS. PARLOVECCHIO: Objection, form.

14 THE COURT: Overruled.

15 THE WITNESS: Can you ask it again? Sorry.

16 BY MR. COLLYARD:

17 Q. Sure. You understand that while you were working in the
18 Anti-Money Laundering Group, there were times when you were
19 looking at activity and you had to understand, for example,
20 if it was wire activity, where the money was coming from and
21 why it was coming to the bank?

22 A. Have to understand where it's coming from, yes.

23 Q. And there were times, just like it's being taught here,
24 Ms. Ramlow, where you actually have to figure out why the
25 wires were coming into the bank, correct?

1 A. If there was reason to need to do that.

2 Q. If there was reason to understand why the money was
3 coming into the bank?

4 A. Correct.

5 Q. Let's go to page 31 in DX-40067. This slide at the
6 top -- I'll just read it -- it says, "Your Responsibilities
7 with Wire Transfer Transactions." Do you see that?

8 A. I do.

9 Q. If we go down to the notes section, give it more
10 clarity, we'll just look at the bottom part of the notes
11 here where it says, "We are improving." It reads, "We are
12 improving our automated monitoring capabilities - but you
13 all need to remain vigilant and consider when certain wires
14 conducted by customers don't make sense." Do you see that?

15 A. I do.

16 Q. And that was the concept of -- being vigilant and
17 considering when certain wires don't make sense was a
18 concept that was being taught to bank personnel; is that
19 right?

20 A. From the training it appears so, yes.

21 Q. And in the anti-money laundering world that you were
22 living in at the bank, one of your roles was to determine
23 whether or not wire activity made sense for the customer,
24 correct?

25 A. Yes.

1 Q. And isn't that really the fundamental basis for what the
2 Anti-Money Laundering Group was trying to do at the end of
3 the day when they were investigating or analyzing activity
4 going in or out of an account was to determine whether or
5 not that activity made sense for the customer?

6 A. Yes.

7 Q. Let's jump to page 38. This slide is at the top, I'll
8 just read it, "Enhanced Due Diligence." Do you see that?

9 A. Yes.

10 Q. Go to the bottom where the notes are. I am just going
11 to take kind of the bottom portion of the notes where it
12 reads, "It's not always." I'll blow that up, and this
13 reads, "It's not always easy to ask the tough questions to
14 make sure we understand the customer and their activity."
15 Do you see that?

16 A. Yes, I read it.

17 Q. And that's -- what that's talking about is teaching its
18 bank personnel that sometimes it's not all that easy to
19 actually reach out to the customer and question the customer
20 on their activity; is that right?

21 A. Sorry. Say the question again. I was reading.

22 Q. The concept that's being taught here is telling bank
23 personnel that it's not always easy to reach out to the
24 customer to question their customer about their activity; is
25 that right?

1 A. It says it's not always easy, yes, to ask the tough
2 questions.

3 Q. So you agree with me?

4 A. What's on the paper, yes.

5 Q. Then the next line reads, "The more you know about a
6 customer, the better you can serve your customers." Do you
7 see that?

8 A. I do.

9 Q. And that's just a basic concept that was being taught to
10 bank personnel, right?

11 A. For this training, yes.

12 Q. And it's just common sense that if you know more about
13 your customer, the better you can serve them, right?

14 A. Yes.

15 Q. Then the last line is, "The more complex the business -
16 the more we need to know about the customer." Do you see
17 that?

18 A. I do.

19 Q. And what is being addressed there?

20 A. Well, this slide is about enhanced due diligence. So
21 depending on if the customer was a certain customer type,
22 you may require more additional information to understand
23 the complexity of the business.

24 Q. And if the business is more complex, you've got to look
25 into it more than you would if it was a simple business; is

1 that right?

2 A. For enhanced due diligence, if that was required for
3 that customer type.

4 Q. Do you know if Petters Company, Inc. was considered --
5 did you consider Petters Company, Inc. to be a complex
6 business or a simple business?

7 MS. PARLOVECCHIO: Objection.

8 THE COURT: Overruled. You may answer if you can.

9 THE WITNESS: In what context, complex? Simple?

10 BY MR. COLLYARD:

11 Q. In the context of the banking world where you are trying
12 to figure out if it's a customer you need to look into
13 further, would you have considered, based on what you knew
14 about Petters Company, it to be a complex business or a
15 simple business?

16 A. From what I understood about them, I didn't see them as
17 fitting into the complex.

18 Q. You thought it was a simple business?

19 A. I wouldn't say simple, but for enhanced due diligence
20 that was required from an AML perspective, I don't remember
21 them falling into a complex bucket.

22 Q. What exactly do you recall the Petters Company, Inc.
23 business was from 2005 to 2007, let's say?

24 A. What was the business type? What were they doing?

25 Q. Yeah, what was the business?

1 A. They were, what I remember, is a number of -- and
2 well-known companies, global companies, companies that we
3 may have been consumers of, like Polaroid or Sun Country or
4 Fingerhut, that fell under a larger group of companies that
5 he was running.

6 THE COURT: Counsel, we are going to take our
7 lunch break now.

8 Members of the Jury, please remember the
9 instructions that you have received and please be ready
10 to -- and please continue to follow them. Please be ready
11 to return to the courtroom at 1:00, and I hope you have a
12 good lunch. All rise for the jury.

13 (Jury excused)

14 **IN OPEN COURT**

15 **(JURY NOT PRESENT)**

16 THE COURT: And you are excused for lunch. Please
17 be prepared to return at 1:00 and be ready to resume your
18 testimony. Thank you.

19 THE WITNESS: Thanks.

20 THE COURT: Anything further from counsel?

21 MR. COLLYARD: No, Your Honor.

22 MS. PARLOVECCHIO: No, Your Honor.

23 MR. GLEESON: One thing, Judge, please.

24 THE COURT: You are excused. The witness is
25 excused.

1 THE WITNESS: Oh, I'm sorry.

2 THE COURT: I don't want to delay your lunch.

3 You may be seated.

4 MR. GLEESON: One miscellaneous thing that I

5 just --

6 THE COURT: Please, let's wait.

7 MR. GLEESON: I'm sorry. One miscellaneous --

8 THE COURT: You may proceed.

9 MR. GLEESON: Sorry, Judge. A miscellaneous item
10 I forgot to mention on Friday was the withdrawal of the
11 motion made at the beginning of the lunch session Friday
12 with regard to this willful blindness. I made the
13 application. The Court retired to -- at the lunch hour to
14 consider it. I informed one of your law clerks, one of your
15 staff, it was withdrawn.

16 I just wanted to reconfirm that that one
17 application that I made at the beginning of the lunch break
18 Friday was withdrawn.

19 THE COURT: So it is on the record now --

20 MR. GLEESON: Thank you.

21 THE COURT: -- that it is withdrawn.

22 MR. GLEESON: Judge, I have two related matters.

23 One is just -- it's really just guidance, and it
24 relates to both we don't want to unnecessarily object. We
25 want to move the trial as much as the Court does, and

1 because it affects scheduling.

2 And the issue is we know that because our
3 witnesses are being called in the plaintiff's case,
4 witnesses we intended to call, we have no kind of outside
5 the scope limitations on our examination. We don't want to
6 unnecessarily object to outside the scope on the redirect
7 examination. And if the Court is inclined to give us a
8 little guidance in that, it would be useful because then we
9 will understand and we won't object maybe as often as we
10 have.

11 It's related to scheduling because we're in this
12 position -- we know you don't want to have any dead air time
13 at the end of the day. Many of the witnesses are witnesses
14 we're bringing to court. We were told to have -- you know,
15 so we had questioning here about what one witness thought
16 Pat Currie-Smotherman was thinking when she closed out an
17 alert.

18 Pat Currie-Smotherman has been here for three
19 days, as have Ms. Ramlow, Mr. Jambor, who works in the area.
20 Those two witnesses are from --

21 THE COURT: Counsel, what is your point?

22 MR. GLEESON: My point is we can't rely --

23 THE COURT: What do you want to do?

24 MR. GLEESON: I would like some guidance on
25 outside the scope. And I also, Judge, to the extent -- we

1 don't think it's reasonable for us to be expected, just
2 because plaintiff's counsel says they're going to be called
3 the next day, to require people, for example, from Milwaukee
4 to spend three days here.

5 So we're just trying to figure out a way so that
6 we're not inflicting unnecessary inconvenience on our
7 witnesses. Part of it will be us predicting how long
8 counsel will actually take, but I think the Court
9 understands -- I sense your impatience with me. I am just
10 trying to minimize the serious inconvenience to our
11 witnesses.

12 THE COURT: I am not impatient with you at all.

13 MR. GLEESON: Okay.

14 THE COURT: You are raising issues with me that
15 should be raised with your opposing counsel such that you
16 can try to coordinate the time frame for bringing witnesses
17 in and perhaps reach agreements as to calling witnesses out
18 of order if necessary.

19 The Court is not going to interject herself into
20 this matter. Counsel can resolve this matter.

21 MR. GLEESON: Fair enough, Judge. Although I
22 understand -- I am not blaming them to the extent that I
23 know they need to identify the witnesses that are coming in.
24 I understand the Court.

25 THE COURT: Counsel can meet and confer about what

1 their plans are for the witnesses that they expect to be
2 calling and that should provide enough information to both
3 sides. And I am speaking to counsel, and that is all
4 counsel, because the same issues will arise when --

5 MR. GLEESON: Which is why --

6 THE COURT: -- I expect, the rest of the case is
7 proceeding. And so I expect cooperation from members of the
8 bar such that we can address an important matter in a timely
9 way, being respectful of the witnesses, the Court, and the
10 lawyers.

11 MR. GLEESON: Forgive me for interrupting the
12 Court. We will try to work it out with plaintiff's counsel.
13 Thank you.

14 THE COURT: Does plaintiff's counsel wish to be
15 heard?

16 MR. COLLYARD: No, Your Honor. Thank you.

17 THE COURT: Okay.

18 LAW CLERK: All rise.

19 (Lunch recess taken at 12:07 p.m.)

20 * * * * *

21 (1:04 p.m.)

22 **IN OPEN COURT**

23 **(JURY PRESENT)**

24 THE COURT: Please be seated.

25 Okay. Counsel, are you ready to proceed?

1 MR. COLLYARD: I am, Your Honor. Thank you.

2 THE COURT: You may.

3 (Pause)

4 THE COURT: Good afternoon. Sorry, it's a small
5 desk.

6 THE WITNESS: It's a little tight up here, so I'm
7 just going to --

8 THE COURT: You can take some things off as well.

9 THE WITNESS: Can I get a thing of water? Is that
10 okay? Kind of busy up here.

11 THE COURT: I'll leave that for you to --

12 THE WITNESS: Thank you. Much better.

13 THE COURT: Okay. Counsel, you may proceed.

14 MR. COLLYARD: Thank you, Your Honor.

15 BY MR. COLLYARD:

16 Q. Ms. Ramlow, before we took our lunch break, I was asking
17 you about the Petters Company, Inc. and I was asking you if
18 you could tell me exactly what you thought the Petters
19 Company, Inc. business was from 2005 up through 2008.

20 A. Oh. So that's a question?

21 Q. Yeah, I'm sorry. What exactly did you think the Petters
22 Company, Inc. business was from 2005 up to 2008?

23 A. So I remember it being just a large group of companies
24 that Mr. Petters owned, including large companies like
25 Fingerhut, Polaroid, Sun Country that came to mind.

1 Q. And you believed that Petters Company, Inc. owned
2 Polaroid?

3 A. I believed they were all related.

4 Q. My question is: Do you believe that the -- did you
5 believe that Petters Company, Inc. owned Polaroid or
6 Fingerhut?

7 A. I don't remember the ownership structure.

8 Q. So it could have been that another company, like, for
9 example, Petters Group, owned Polaroid or Fingerhut; is that
10 right?

11 A. I don't remember.

12 Q. So you don't really have a specific recollection that
13 you believed Petters Company, Inc. actually owned any of
14 those entities, right?

15 A. No, I believed they were all related.

16 Q. Related in that Petters Company, Inc. was also a company
17 that Tom Petters had?

18 A. Yes.

19 Q. But what I'm trying to figure out is if you have a
20 specific recollection that you actually believed Petters
21 Company, Inc. owned Polaroid.

22 MS. PARLOVECCHIO: Objection, asked and answered.

23 THE COURT: Overruled. You may answer.

24 THE WITNESS: Okay. Ask it again.

25 BY MR. COLLYARD:

1 Q. Yeah. Let's back up. You understand that Petters had
2 an empire of businesses; is that fair to say?

3 A. Yes.

4 Q. And you understand that he had a big business called
5 Petters Group Worldwide. Do you remember that?

6 A. I remember the name.

7 Q. And do you understand that Petters Group Worldwide
8 actually owned those entities that you have been talking
9 with me about?

10 A. I don't remember the entire ownership structure. I just
11 remember them being under the ownership of Petters.

12 Q. Now, if we just pull Petters Company, Inc. out of it --
13 and I'm trying to figure out if you had a belief that
14 Petters Company, Inc. owned any of those other companies,
15 like Sun Country or Polaroid or Fingerhut.

16 A. I don't remember those specifics.

17 Q. How did you reach your conclusion as to what you
18 believed the Petters empire or the Petters Group of
19 companies owned?

20 A. From looking at the information we had available at the
21 time.

22 Q. And what would that have been?

23 A. That would have been information in the customer
24 systems, the banker notes, the activity we looked at when we
25 were reviewing them.

1 Q. So let's unpack that a little bit. When you say "the
2 company systems," are you talking about, for example, the
3 MIContacts database?

4 A. That would have been one place to go.

5 Q. And what do you understand the MIContacts database to
6 be?

7 A. It was a database where bankers, so bankers who were on
8 the front line talking to customers, could actually put
9 notes about their -- the conversations that they were having
10 with their clients, whether it was an interest in a product
11 or any other notable information they wanted to put in
12 there.

13 Q. So the MIContacts system is where bankers could put
14 information about the customer or their clients or their
15 communications with their customers; is that right?

16 A. It was.

17 Q. And the AML folks could go and they could actually look
18 at that database to learn more information about the actual
19 company; is that right?

20 A. Yes.

21 Q. And so, for example, the AML Group from 2005 to 2008
22 could go to the MIContacts database, look in the Petters
23 Company, Inc. portion of the MIContacts to see what they
24 could learn about the business; is that right?

25 A. I don't remember exactly where you'd look under for what

1 name, but that's the place where comments would be on
2 companies or individuals.

3 Q. And you could actually go in the database and search,
4 right?

5 A. I don't remember how we searched, but, yes, you would
6 search it somehow.

7 Q. Do you remember, for example, that -- so let's say
8 Petters Company, Inc. was doing business with a company
9 called Metro Gem -- that you could actually go in and type
10 in "Metro Gem" and see if there were any MIFontacts for
11 Metro Gem?

12 A. If they were a client, you would find something.

13 Q. And you could -- do you remember you could actually type
14 in the words "Metro Gem" and search for that?

15 A. I don't remember how the search function worked, but you
16 could look for the -- you could look and see if there was
17 client information on who you were looking at, that client
18 of the bank.

19 Q. And if you were looking in the MIFontacts database to
20 find out information about Petters Company, Inc. and you had
21 any questions about what you were seeing, could you pick up
22 the phone and call the customer relationship manager to ask
23 the customer relationship manager or the business bankers
24 questions about what you were seeing?

25 A. I don't remember the contact channels, but I'm sure

1 there was some way within the group to reach out to a banker
2 if it was necessary.

3 Q. And I'm not going to ask you about any particular
4 instance right now, but you know that when you were an
5 anti-money laundering analyst you actually picked up the
6 phone and had reached out to business bankers to ask them
7 questions, right?

8 A. Probably did at some point.

9 Q. That was part of the practice in the Anti-Money
10 Laundering Group, correct?

11 A. There was channels that you could go through. You could
12 either have the manager call or -- if it was necessary, but
13 you tried to avoid that to tip anybody off on what you were
14 looking at.

15 Q. Well, you would have -- it was perfectly fine -- let's
16 make sure we talk about that, because it was perfectly fine
17 for the anti-money laundering analyst to reach out to the
18 business banker, right?

19 A. I don't remember the protocols.

20 Q. What you mean by tip somebody off, you mean tip off the
21 customer that you were looking into their activity; is that
22 what you're talking about?

23 A. Yes.

24 Q. Now, let me see if I have this right. You could reach
25 out to the business banker and if the business banker

1 couldn't answer your question, the business banker could
2 actually ask the customer questions. It's just that they
3 couldn't tip them off that the Anti-Money Laundering Group
4 was looking into it. Is that fair to say?

5 A. Yes.

6 Q. And that was actually a process that the Anti-Money
7 Laundering Group followed and practiced; isn't that true?

8 A. I don't remember all the contact practices.

9 Q. Well, why would you have been calling a business banker,
10 for example?

11 A. I don't remember.

12 Q. Well, would it have been to get more information about a
13 customer or the customer's activity?

14 A. If it was necessary.

15 Q. Do you recall actually doing that?

16 A. I don't remember.

17 Q. You could have done that, you just can't remember as
18 you're sitting here right now?

19 A. I don't remember during that time frame.

20 Q. Did you ever do any training of anti-money laundering
21 analysts as to how to properly investigate an alert as they
22 were adjudicating an alert?

23 A. I'm sorry. Ask the question again.

24 Q. Were you involved in any training of anti-money
25 laundering analysts as to how to properly adjudicate an

1 alert?

2 A. I did help with coaching, yes.

3 Q. And during that training, one of the things that you
4 would have talked with anti-money laundering analysts about
5 would be to pick up the phone and call somebody if you had
6 questions, right?

7 A. We would talk about if it was necessary, what were the
8 practices to talk to them.

9 Q. Go back to the Petters Company, Inc. Real quick. Do you
10 know what "peer" means in the anti-money laundering world?

11 A. "Peer" means someone who does -- you know, is similar to
12 you.

13 Q. And is one of the things that would happen in the
14 Anti-Money Laundering Group is you would look at your
15 customer's activity, for example, the value and volume of
16 wires, and compare it to the peers, their value and volume
17 of wires?

18 A. I wouldn't be comparing it to their other customers. We
19 would be looking at their activity.

20 Q. So let me back up. The Anti-Money Laundering Group,
21 there were segments where they identified a peer group, for
22 example, right?

23 A. Can you give me more context?

24 Q. Do you know what a peer group is?

25 A. Peer group was one of the ways in which they set up the

1 monitoring.

2 Q. So if incoming wires, for example, are being alerted
3 within the systems at the bank, those incoming wires are
4 being compared to a peer group, right?

5 A. I don't remember how it was all set up, but there was --
6 it was compared to a peer group, yes, value and volume.

7 Q. And do you know what the peer group was for the business
8 banking group in 2005 to 2008 that the Petters Company, Inc.
9 checking account was in?

10 A. I don't remember.

11 Q. Would it be other businesses?

12 A. I don't know.

13 Q. Does that make sense to you, that it would be other
14 businesses?

15 A. I don't understand your question.

16 Q. Do you have any understanding as to how alerts were
17 created in the Searchspace system, for example?

18 A. There -- they would alert if there was additional --
19 like if they were alerting out of their -- compared to their
20 peers for value and volume.

21 Q. So that is the process that I'm trying to talk about.
22 So that's what I'm trying to talk about, is they were
23 compared to their peers for value and volume. Is that what
24 you said?

25 A. For the peer group.

1 Q. And what was the peer group that Petters Company, Inc.
2 was compared to?

3 A. I don't remember.

4 Q. Is it -- do you know if it was just any business in the
5 business banking group or was it specific businesses?

6 A. I don't know how it was set up.

7 Q. Do you -- are you familiar with this concept of "know
8 your customer," of being familiar with similarly-situated
9 customers?

10 A. No.

11 Q. No, you're not --

12 A. I understand "know your customer." I just don't
13 understand your question.

14 Q. As part of the "know your customer" concept, as part of
15 knowing your customer --

16 A. Um-hum.

17 Q. -- are bank personnel taught to be aware of or familiar
18 with similar customers?

19 A. No.

20 Q. That doesn't make sense in the anti-money laundering
21 world, to know that?

22 A. Not in the context that you're asking it.

23 Q. Have you heard of the term "similarly-situated
24 customers"?

25 A. No.

1 Q. Are you -- do you know of or can you name any customer
2 at the bank back in 2005 through 2008 that was similar to
3 Petters Company, Inc.?

4 A. Not that I remember.

5 Q. Is that anything that the AML Group ever talked about,
6 sat around and talked about and said we have billions of
7 dollars coming in from Petters Company, Inc., is there any
8 other customer like this in the bank?

9 MS. PARLOVECCHIO: Objection, calls for hearsay.

10 THE COURT: Overruled. If you remember hearing
11 that.

12 THE WITNESS: No.

13 BY MR. COLLYARD:

14 Q. Let me ask you this: Can you name any other customer
15 that you were reviewing or adjudicating alerts on from 2005
16 through the 2008 time period where you were reviewing alerts
17 that involved billions of dollars going in and out of the
18 account?

19 A. I don't remember.

20 Q. Can you tell me what -- like a big alert would be for
21 you?

22 MS. PARLOVECCHIO: Objection, vague.

23 THE WITNESS: Big in what context?

24 THE COURT: Sustained.

25 MR. COLLYARD: Let me fix that.

1 BY MR. COLLYARD:

2 Q. I'm trying to get a sense of how unique or how unusual
3 it was that the Petters Company, Inc. alerts were going off
4 for billions of dollars. I'm trying to put that into
5 context as to what you would see at the bank and if this was
6 something that you were doing every day, where you were
7 seeing billions of dollars in other customers, or if you can
8 give me a sense as to what a large volume or large value
9 would be just has an average for the types of alerts that
10 you were reviewing.

11 MS. PARLOVECCHIO: Objection, form.

12 THE COURT: Sustained.

13 BY MR. COLLYARD:

14 Q. Can you give me any -- can you tell the jury any
15 information at all about alerts that you would have
16 reviewed -- let me do it this way. Can you describe any
17 alert, for example, where you reviewed alerts where there
18 were hundreds of millions of dollars going in and out of an
19 account on a monthly basis?

20 A. I don't remember.

21 Q. And can you describe for the jury any example or any
22 instance where you reviewed alerts where there was billions
23 of dollars going in and out of an account on a monthly or
24 bimonthly basis?

25 A. It was 16 years ago. I've reviewed hundreds of alerts.

1 No, I don't remember.

2 Q. Does the -- so in the Anti-Money Laundering Group, do
3 you understand that one of the things you're doing is you're
4 looking for unusual patterns of activity?

5 A. Yes.

6 Q. And as part of looking for unusual patterns of activity,
7 would the value of wires going in and out of the account go
8 into that analysis?

9 A. It would depend on what they are alerting on, but, yes,
10 you would look at -- because that's why they were alerting,
11 value and volume.

12 Q. And as part of that, you would consider the -- if it was
13 a large value, you would also consider on top of that
14 whether there were similar numbers or similar amounts going
15 in and out of an account? Would that go into your analysis?

16 A. What do you mean, "similar amounts"?

17 Q. So, for example, If there was \$1.5 billion going in and
18 \$1.51 billion going out, would that be something that you
19 would be considering in your analysis as to whether
20 something was potentially unusual that should be looked into
21 further?

22 A. I don't remember that specifically.

23 Q. Does that sound like a reasonable conclusion that -- as
24 an anti-money laundering analyst, that that would be one of
25 the factors that you would consider?

1 A. It depends on what activity they were doing.

2 Q. And how would you know what activity they were doing?

3 A. By looking at the transactions.

4 Q. What, specifically, would you be looking for?

5 A. Be looking at their activity. Does it look like they
6 have done this activity before? Like, what's your baseline?
7 Does it look like something that they have -- you would
8 expect for the customer? And then looking for anything that
9 would be anomalous after that.

10 Q. So in order to understand whether or not it made sense
11 for the customer that billions of dollars were coming in on
12 an alert for a customer, you would have to understand the
13 customer's transaction activity, correct?

14 A. Yes.

15 Q. And you'd have to understand some information about why
16 billions of dollars are being wired into the account,
17 correct?

18 A. You wouldn't know why from every wire. That wasn't
19 visible to the analyst.

20 Q. I understand. I'm just asking if you had -- let's even
21 make it more specific. If billions of dollars were coming
22 into the account and 75 percent of those billions of dollars
23 were coming in from a couple of entities, you would want to
24 know -- it would make sense to know more about those
25 entities and why they were wiring that money into the

1 account to see if that activity made sense for the customer,
2 right?

3 MS. PARLOVECCHIO: Objection, form.

4 THE COURT: Sustained.

5 BY MR. COLLYARD:

6 Q. If there were billions of dollars coming in from a
7 couple of entities, Ms. Ramlow, what would you do to
8 determine whether or not that activity made sense for the
9 customer?

10 A. You would be looking at the activity across the account,
11 what was the activity, what had they done, have you seen the
12 same, you know, type of volume or originator, beneficiaries
13 before, what information could you find in your systems.
14 The tools that we had, just kind of bring the picture
15 together.

16 Q. And then that would lead you to the analysis as to
17 whether or not you should look into those entities more; is
18 that right?

19 A. Which entities more?

20 Q. The entities wiring the money into the account.

21 A. We would only have what was visible to us.

22 Q. And taking what was visible to you and looking at all
23 the money coming into the account and looking at the
24 transaction data, would that then go into the analysis as to
25 whether or not you should look into those entities who are

1 wiring most of that money in?

2 MS. PARLOVECCHIO: Objection, form.

3 THE COURT: Overruled. You may answer.

4 THE WITNESS: Oh, okay. Can you ask the question
5 again?

6 BY MR. COLLYARD:

7 Q. Sure. I'm just trying to figure out, Ms. Ramlow, if you
8 have billions of dollars coming in from a couple of entities
9 and you can see that the billions of dollars are coming in
10 and they are for similar amounts, I'm trying to figure out
11 then how do you take the next step to determine whether you
12 should look into those entities further.

13 A. Without having all the information in front of me today,
14 you're doing an analysis and looking at the wholistic review
15 of the customer, their activity and what's available.

16 Q. And when you say "wholistic," you're talking about
17 you're looking at all of the activity, right?

18 A. Yes.

19 Q. And you're looking at all of the wires; is that right?

20 A. Looking at wires and other ancillary-type transactions.

21 Q. And when you're doing your investigation like that, you
22 actually look to see like -- you actually look to see what
23 are the majority of the wires coming in or where are the
24 wires primarily coming in from; is that right?

25 A. You would look and you would sample and see where the

1 wires are coming from, yes.

2 Q. And for incoming wires -- you mentioned wholistically.
3 For incoming wires, you would wholistically look at the
4 transaction activity to try to determine why that entity was
5 wiring in money, correct?

6 A. No, we wouldn't know why they were wiring in money.

7 Q. Would you ever try to figure out or determine why an
8 entity, for example, was wiring money into the account?

9 A. If it was necessary.

10 Q. And in doing that, you would try to figure out why that
11 particular entity was wiring in money if you were looking
12 into that particular entity; is that right?

13 A. If it was necessary.

14 Q. And that is something you actually remember doing,
15 right?

16 A. For?

17 Q. During your time as an anti-money laundering analyst, in
18 your experience, you had actually looked into and researched
19 why entities were wiring money into an account on an alert?

20 A. We wouldn't know why they would be wiring. We could see
21 the account number, the name, the beneficiary, but it
22 doesn't tell you why someone is sending it in.

23 Q. I'm just asking, Ms. Ramlow, if in your experience --
24 and either you have or you haven't, but in your experience,
25 you have actually researched entities wiring money into an

1 account to see why they were wiring money into the account,
2 correct?

3 A. And how would we research the why?

4 Q. I'm asking you if you have actually done that.

5 A. I don't remember.

6 Q. And I'll just try this one more time, then, to ask it a
7 different way. When you were investigating incoming wires,
8 you would try and figure out why that particular entity was
9 wiring in money if you were looking into that particular
10 wire, right?

11 A. I wouldn't know why they were wiring in the money.

12 Q. And you would -- what you would do is you would
13 wholistically look at all the activity for the client to try
14 to make that determination as to why that entity was wiring
15 in the money, right?

16 A. I wouldn't know why they were wiring in the money.

17 MR. COLLYARD: Your Honor, permission to approach?

18 THE COURT: You may.

19 MS. PARLOVECCHIO: Can I see what it is?

20 MR. COLLYARD: Deposition transcript.

21 MS. PARLOVECCHIO: All right. Well --

22 BY MR. COLLYARD:

23 Q. Ms. Ramlow, I asked you that question at your
24 deposition. Do you remember --

25 MS. PARLOVECCHIO: Objection, improper

1 impeachment.

2 THE COURT: Overruled.

3 BY MR. COLLYARD:

4 Q. I'm sorry, Ms. Ramlow. Do you remember when I took your
5 deposition on January 18th of 2018?

6 A. Yes.

7 Q. You have the -- what you have in front of you is your
8 transcript from that deposition.

9 A. Okay.

10 Q. Do you see that?

11 A. Okay.

12 Q. And do you remember giving truthful and accurate
13 testimony at your deposition?

14 A. I do.

15 Q. If you can just please turn to page 64. And if you see
16 that there's line numbers there, you see line 5. And I
17 asked you the question, Ms. Ramlow: "And you would try and
18 figure out why that particular entity was wiring in money if
19 you were looking into that particular wire, right?" Do you
20 see that? Did I read that correctly?

21 A. I do.

22 Q. And you answered, "We would wholistically look at all
23 the activity for the client to try to make that
24 determination." Did I read that correctly?

25 A. Yes.

1 Q. And what you would do, Ms. Ramlow, is you would try to
2 figure out how that entity wiring money into the account fit
3 into the context of the activity by doing your wholistic
4 review, correct?

5 (Witness reviews document)

6 A. I'm just reading it. Is that okay?

7 Q. I'm -- we're off of that now, Ms. Ramlow. I'm asking
8 you a separate question.

9 A. Okay. Can you ask the question again?

10 Q. Yes. And what you would try to do is you would try to
11 figure out how the entity wiring money into the account fit
12 into the context of the activity by doing your wholistic
13 review?

14 A. We would wholistically look at the client and all the
15 activity, is what we would do.

16 Q. And in the instance of an incoming wire is you would do
17 that to try to figure out how the wires coming into the
18 account fit into the activity for the customer, correct?

19 A. What do you mean, how they fit in?

20 Q. How it made sense for the customer.

21 A. That's right.

22 Q. That's correct?

23 A. Yes.

24 Q. And you agree with me, then, Ms. Ramlow, that you would
25 wholistically be making a decision, based on all the

1 activity that you could see, to make the determination, the
2 ultimate determination, if it makes sense for the customer?

3 A. Yes.

4 Q. You mentioned that you accessed MIContacts. What other
5 type of information did you access when you were
6 investigating and reviewing alerts?

7 A. We would look at the internet. We would look at check
8 images of checks clearing the account we could look at or
9 the deposits that were coming in.

10 Q. Were there -- did you have access to, for example, bank
11 statements for the customer?

12 A. I believe we did.

13 Q. And what would the bank statements show?

14 A. They would just show high level the transactions moving
15 in and out on the account, so a wire, the amount; a deposit,
16 the amount.

17 Q. The name of who was wiring the money in?

18 A. I don't remember that being in a bank statement.

19 Q. Were you able to access -- do you remember being able to
20 access information, for example, on incoming wires, the name
21 and the addresses of who was wiring the money into the
22 account?

23 A. Yes, we could see the account number and name and
24 address.

25 Q. And sometimes wires would make reference to the reasons

1 for the wires; is that right?

2 A. They might.

3 Q. So, for example, if they referenced note numbers or they
4 referenced a particular reason for the wire, you could see
5 that information too, correct?

6 A. If it was available and they put it in the wire.

7 Q. And how would you access that information?

8 A. I can't remember the name of the wire system, but there
9 was a wire database that we could look at that had just the
10 name -- you know, the account and the name and the address.

11 Q. Does that go into the bucket of transaction -- when we
12 talk about transaction activity, does that go in the bucket
13 of transaction activity?

14 A. Well, that would have been -- yes, because it's a wire
15 we would have been looking at it.

16 Q. Are wires generally more high risk than other
17 transactions?

18 A. In what context?

19 Q. Just a wire -- did the Anti-Money Laundering Group or
20 the bank consider wires to be just more high risk in general
21 than other transactions?

22 A. Not necessarily.

23 Q. Go back to -- let's go back to Defendant's
24 Exhibit DX-40067 and we're going to go to page 30 of this
25 exhibit. And if you see at the top there, it says, "BSA

1 Reporting and Recordkeeping Requirements." Do you see that?

2 A. Yep.

3 Q. And then down below it highlights "Wire Transfer
4 Transactions." Do you see that?

5 A. Yes.

6 Q. And that's talking about wires, right?

7 A. Yes, it's talking about wires.

8 Q. And if we go down below to the notes section so we can
9 see what the bank was actually saying about it, we'll look
10 at the first comment there. Do you see that?

11 A. Yes.

12 Q. And it says, "Generally wires are considered higher risk
13 transactions - especially international wires." Do you see
14 that?

15 A. I do.

16 Q. And my comment, then, you agree that generally wires are
17 considered to be higher risk transactions, right?

18 A. They can be, but it's not as -- it doesn't mean that
19 cash isn't as high risk either.

20 Q. Cash is also high risk?

21 A. Yeah.

22 Q. Checks, like, for example, people writing checks to
23 themselves out of a business account could be something that
24 would require higher level of scrutiny; is that right?

25 A. No.

1 Q. If you had officers of a small business checking account
2 writing checks to themselves, do you believe that that would
3 require a higher level of scrutiny if they were large
4 checks?

5 A. If it's their business, they could write checks to
6 whoever they wanted to.

7 Q. And the Anti-Money Laundering Group wouldn't look into
8 that?

9 A. I didn't say that. Depends on who the check is to, are
10 there any notes on the check.

11 Q. If there were no notes on the check and it was a check
12 written by an officer of the company out of just a small
13 business checking account for millions of dollars, would
14 that require a higher level of scrutiny?

15 A. It would be interesting.

16 Q. Would it be unusual?

17 A. Potentially.

18 Q. Let's go --

19 MR. COLLYARD: We can take this one down.

20 BY MR. COLLYARD:

21 Q. Do you remember, Ms. Ramlow, adjudicating the alerts
22 that you adjudicated or reviewed and closed on the Petters
23 Company, Inc. account?

24 A. No, I don't.

25 Q. When you found out about the Petters Ponzi scheme, did

1 you go back and look at any of your alerts that you had
2 closed?

3 A. I don't remember what I did.

4 Q. You didn't go back and look to see what you did or how
5 you ended up closing alerts when there was a Ponzi scheme?

6 A. I don't remember what I did.

7 Q. Let's go to -- if you can find for me, please,
8 Exhibit 183. We're going to go to page 49 of Exhibit 183.
9 If you can just take a look at that page, Ms. Ramlow, and
10 tell me if you agree that these are the audit trails or the
11 comments that would go into Searchspace for an alert when
12 it's closed.

13 A. Yes.

14 Q. And you're familiar with this document, right?

15 A. We have been through it before, yes.

16 Q. And if you take a look up at the top, it says, "Alerted
17 month: July of 2006." Do you see that?

18 A. Yes, I see it.

19 Q. Up in the left-hand corner, it's Alert 69663, right?

20 A. Yes.

21 Q. And over to the right it says, "Assigned to:" and it's
22 got "mramlow." Do you see that?

23 A. I do.

24 Q. And that's you, right?

25 A. Correct.

1 Q. So this is an alert that you closed on the Petters
2 Company, Inc. account; is that true?

3 A. Yes.

4 Q. And the time period for this alert, can you look to see
5 the time period and see if you agree with me that the time
6 period is from July through August of 2006?

7 A. That's correct.

8 Q. So there were two months -- there were two alerts in two
9 months and you closed them under the number of 69663; is
10 that fair?

11 A. Yes.

12 Q. If we can just get a sense of this, we'll go to the
13 second page. And you agree that this was an alert for
14 incoming and outgoing wires for both value and volume,
15 right?

16 A. It was for value.

17 Q. It was for value of both incoming and outgoing wires?

18 A. Yes.

19 Q. So let's go to page 50. And if we just take a look
20 here, I'll show you these two. It says, "There were 418
21 incoming wires," and then it gives those dates we just
22 talked about, "ranging from," and it gives a range, right,
23 with the biggest wire being \$34.8 million. Do you see that?

24 A. Yes.

25 Q. And then a total of \$1.23 billion, right?

1 A. Yes.

2 Q. And then you list the outgoing wires, correct?

3 A. (No response.)

4 Q. And you list -- I'm sorry. Is that correct?

5 A. Yes, I list the outgoing wires.

6 Q. And the outgoing wires were for \$1.237 billion, right?

7 A. That's correct.

8 Q. And you agree those are -- the incoming and outgoing
9 wires for \$1.23 billion are similar numbers, right?

10 A. Say that again? Sorry.

11 Q. Do you agree that the incoming -- that the incoming and
12 outgoing wires for \$1.23 billion are similar numbers?

13 A. They are -- they are close, yes.

14 Q. And if we just take a look at the outgoing wires, you
15 give a range there as well, right?

16 A. Yes.

17 Q. And the largest wire going out of the account, you say,
18 is \$10 million even, right?

19 A. That's correct.

20 Q. That's a round number, right?

21 A. \$10 million is a round number.

22 Q. And as an anti-money laundering analyst, you're trained
23 to look for round numbers, correct?

24 A. We do look for round numbers, but in and of themselves
25 they are not -- you have to look at everything around it.

1 Q. Okay. Well, if we look at everything around it, let's
2 see what the \$10 million was for. If you look down, it
3 says, "The largest wire was to Kurt Bosshardt & Associates,
4 who are attorneys, accountants, and brokers who focus on the
5 yachting industry." Do you see that?

6 A. I do.

7 Q. We have a \$10 million round or even wire going to
8 attorneys, accountants, and brokers in the yachting
9 industry, correct?

10 A. Yes.

11 Q. Do you have any idea, Ms. Ramlow, why \$10 million was
12 going to -- out of the Petters Company, Inc. account to
13 attorneys, accountants, and brokers in the yachting
14 industry?

15 A. No.

16 Q. Do you remember how you determined that this \$10 million
17 was going to attorneys, accountants, and brokers in the
18 yachting industry?

19 A. I don't remember.

20 Q. Did you conclude, Ms. Ramlow, that this activity was or
21 was not suspicious?

22 A. I did.

23 Q. And you concluded it was not suspicious?

24 A. That's correct.

25 Q. How did you -- what did you make your determination on?

1 A. It was a wire to a law firm.

2 Q. Do your comments -- can you look at your comments and
3 explain how or why you concluded that the \$10 million wire
4 to somebody in the yachting industry was not suspicious?

5 A. It wasn't necessary to explain your rationale or
6 thinking for every single wire in the narrative.

7 Q. I'm just asking if you can look at your comments and
8 tell the jury why or how you concluded that that wire was
9 not suspicious.

10 A. Again, it was to a law firm. I don't remember doing the
11 alert or what I was looking at.

12 Q. Can you read your comments and tell why you concluded it
13 wasn't suspicious?

14 A. Which part of the comments?

15 Q. Just the comments about the \$10 million wire going to
16 associates, attorneys, accountants, brokers who focus on the
17 yachting industry.

18 A. I didn't have to explain why.

19 Q. I understand, Ms. Pesch [sic]. I'm just asking if you
20 can read your comments and tell us why, why you concluded
21 that that activity was not suspicious.

22 A. I can't go back to that day and tell you why.

23 Q. And you don't know, as you're sitting here today, why or
24 how you actually concluded it was not suspicious?

25 A. I don't remember doing the alert, no.

1 Q. Now, are there certain areas that are high risk or
2 higher risk?

3 A. Areas?

4 Q. Yes.

5 MS. PARLOVECCHIO: Object to form, vague.

6 THE COURT: Overruled. You may answer if you can.

7 THE WITNESS: I don't know what you mean by
8 "areas."

9 BY MR. COLLYARD:

10 Q. Are there categories that the Anti-Money Laundering
11 Group considers to be more high-risk categories? So I'll
12 give you an example. Like a large vehicle dealer, could
13 that fall into a category of an area that would be higher
14 risk for wires?

15 A. I don't remember off the top of my head.

16 Q. Let's go to Plaintiff's Exhibit -- hold on to this for a
17 second -- go to Plaintiff's Exhibit 212. Can you go to
18 Plaintiff's Exhibit 212 for me, Ms. Ramlow. Actually, you
19 don't have it. I need to approach.

20 MR. COLLYARD: May I approach, Your Honor?

21 THE COURT: You may.

22 MS. PARLOVECCHIO: I don't have it either. Is
23 this on the list?

24 (Document handed to Ms. Parlovecchio)

25 MS. PARLOVECCHIO: Thank you.

1 MR. COLLYARD: You're welcome.

2 May I approach the bench, Your Honor, and give you
3 one?

4 THE COURT: Yes, you may.

5 (Document handed to the Court)

6 MS. PARLOVECCHIO: Your Honor, this exhibit was
7 not previously disclosed to us.

8 THE COURT: I didn't hear what you said.

9 MS. PARLOVECCHIO: I'm sorry. This exhibit was
10 not previously disclosed to us on the list. May we just
11 have a moment to review?

12 THE COURT: You may.

13 (Pause)

14 MS. PARLOVECCHIO: We've clarified the issue, Your
15 Honor. Thank you.

16 THE COURT: You're welcome.

17 BY MR. COLLYARD:

18 Q. Ms. Ramlow, if you can take a look at Plaintiff's
19 Exhibit 212, it's titled 2005 AML/BSA Core Module. Do you
20 see that?

21 A. Yes.

22 Q. And it says, "Welcome to the AML/BSA Core module." Do
23 you see that?

24 A. I do.

25 Q. This is another training material that the bank put on;

1 is that right?

2 A. It appears so. I don't remember looking at this, but
3 okay.

4 Q. You don't remember looking at this particular training
5 presentation?

6 A. I don't remember from --

7 Q. Do you know -- I'm sorry.

8 A. Sorry, I didn't mean to talk over you. But, no, from
9 2005, no.

10 Q. I was talking over you. I apologize.

11 So from -- can you look at this document and tell
12 me if you're familiar with these concepts?

13 A. Which slide are you looking at?

14 Q. Well, are you familiar with the -- so M&I's corporate
15 commitment to compliance, for example?

16 A. I don't remember what that was.

17 Q. You don't remember what that was?

18 A. Not specifically, no.

19 Q. What about suspicious activity identification and
20 reporting?

21 A. These -- I'm sorry. These are titles, so I don't know
22 what the context is to what's under here.

23 Q. Let's go to -- let's flip to page 15, if you will. I'm
24 sorry. It's better to go to page 14. Are you with me?

25 A. Yes.

1 Q. It talks about the United States PATRIOT Act. Do you
2 see that?

3 A. Oh. 13 is the USA PATRIOT Act?

4 Q. Yes.

5 A. Yes.

6 Q. And then down below it talks about How M&I --

7 MS. PARLOVECCHIO: Objection, Your Honor, this is
8 not yet in evidence. If he wants to ask her generally
9 whether she's familiar with the concepts, we would have no
10 objection, but he's proceeding to read from the document.

11 MR. COLLYARD: I'm trying to identify the topics
12 to ask her because she's asked me -- she asked me a
13 clarifying question, so I'm getting to the topic to ask her.

14 THE COURT: Counsel, ask a question regarding the
15 matter and properly examine the witness.

16 BY MR. COLLYARD:

17 Q. Are you familiar with, in all of your experience,
18 Ms. Ramlow, being in the Anti-Money Laundering Group for all
19 of the years that you have been there, areas that have been
20 identified as business types that are at greater risk for
21 money laundering and terrorist financing?

22 A. There are higher-risk business types that are high-risk
23 customers, yes.

24 Q. And are some of those business types, for example, large
25 vehicle dealers?

1 A. I don't remember that one specifically.

2 Q. Are some of those areas professional service providers,
3 for example?

4 A. Yes.

5 Q. And that would include accountants and attorneys, right?

6 A. I believe so.

7 Q. And if we just step back to the concept of money
8 laundering, you understand that as part of the concept of
9 money laundering, that one of the things that money
10 launderers do is they use banks to clean their money, right?

11 A. Yes.

12 Q. And as part of money laundering, the process of
13 integration, money launderers buy things to make it look
14 legitimate, correct?

15 A. Yes.

16 Q. And that would include things like houses, right?

17 A. Could be a house.

18 Q. Cars, correct?

19 A. Sure.

20 Q. And yachts, right?

21 A. Don't know. Sure.

22 Q. Well, yachts would fall on the list, right?

23 A. They could buy a yacht, they could call a boat, sure.

24 Q. And that would be one of the things that the Anti-Money
25 Laundering Group was looking for, would be those types of --

1 that type of activity could potentially be interesting or
2 unusual to look into, correct?

3 A. If you were looking at a lawyer's account, yes.

4 Q. And if we go back to Plaintiff's Exhibit 183, page 50,
5 do you agree with me, Ms. Ramlow, that \$10 million to
6 somebody who falls into these categories of accountants and
7 brokers in the yachting industry would fall into that
8 category of being potentially unusual or interesting to look
9 into?

10 A. Can you say it again?

11 Q. Do you agree with me that a \$10 million wire to
12 attorneys or accountants who fall in this high-risk category
13 pertaining to the yachting industry could fall into your
14 category of potentially being unusual or interesting?

15 MS. PARLOVECCHIO: Objection, misstates the
16 testimony.

17 THE COURT: Overruled. You may answer.

18 THE WITNESS: Okay. You'd have to look at all the
19 other activity in context. It was a wire to a law firm.

20 BY MR. COLLYARD:

21 Q. Well, was it -- I'm sorry, Ms. Ramlow. I'm reading your
22 notes. It was a wire to Kurt Bosshardt, who are attorneys,
23 accountants, and brokers in the yachting industry, correct?

24 A. Yes.

25 Q. And when you say you would have to consider all of the

1 other activity, how would you consider that in the context
2 of all of the other activity in the Petters Company, Inc.
3 account to determine whether or not a \$10 million wire going
4 to somebody in the yachting industry would be something that
5 you would think would be unusual enough to look further
6 into?

7 A. Well, I didn't think that the other activity was unusual
8 that Mr. Petters was laundering.

9 Q. Do you recall at all what you thought about this
10 particular wire?

11 A. It was 16, 17 years ago.

12 Q. With all of your experience in the Anti-Money Laundering
13 Group from 2005 to 2008, do you agree that it would be at
14 least interesting that a \$10 million is going to attorneys,
15 accountants, and brokers in the yachting industry?

16 A. Again, when I was looking at Mr. Petters and his
17 accounts, I don't remember what I thought about this wire.
18 I just indicated that it went to the attorneys.

19 Q. And you don't -- and do you agree with me, Ms. Ramlow,
20 that a \$10 million wire to attorneys, accountants, and
21 brokers in the yachting industry would at least be unusual?

22 A. Not for a company or business that was involved in all
23 sorts of global services.

24 Q. What about a company that was involved in the business
25 of buying and reselling TVs?

1 A. No.

2 Q. It wouldn't be unusual?

3 A. Would it be unusual?

4 Q. Yes.

5 A. Just -- if they were just being TVs and they bought a
6 yacht? It might be interesting.

7 Q. Let's go back to -- let's go back up to the top to
8 incoming wires and look at the \$1.232 billion of incoming
9 wires, and this time if we just take that block for incoming
10 wires and grab the block below it talking about where the
11 wires were from.

12 So what I'm going to do is focus on what you wrote
13 about the incoming wires, Ms. Ramlow, and what you said was,
14 "The remaining wires" -- I'm sorry. I've got to go back up.
15 You said, "The largest wire was from the Enchanted Family
16 Buying Company." Do you see that?

17 A. Yes.

18 Q. So this tells us that Enchanted was the one who wired in
19 the \$34.8 million, right?

20 A. It appears to be, yes.

21 Q. And in order to determine that, you would have had to
22 have seen that wire and you would have looked at it,
23 correct?

24 A. I would have looked at the information available on the
25 wire.

1 Q. And the information on the wire would have told you that
2 Enchanted was wiring in \$34 million, correct?

3 A. I would have seen the amount of the wire and that it was
4 coming from them.

5 Q. And then down below you say the remaining wires were
6 primarily from Enchanted, Nationwide and then you list some
7 more, right?

8 A. Yes.

9 Q. And why are you saying that they were primarily from?

10 A. I used the word "primarily" when that means probably the
11 majority or a large portion.

12 Q. And do you know, Ms. Ramlow, for example, out of the
13 \$1.23 billion that were wired in, do you know how much
14 Enchanted and Nationwide wired in to reach your conclusion
15 that they fall in the primary category?

16 A. I don't remember.

17 Q. Did you have -- is that information that you had
18 available to you?

19 A. The wire activity and how many there were? Yes.

20 Q. And do you recall -- if I told you, Ms. Ramlow, that
21 Enchanted and Nationwide wired in \$877 million out of the
22 \$1.23 billion, would that help refresh your recollection?

23 A. I don't remember working the wire.

24 Q. That doesn't refresh your recollection?

25 A. No.

1 Q. Would you have any reason to disagree with me if I told
2 you that Nationwide and Enchanted wired in \$877 million out
3 of the \$1.23 billion?

4 A. I don't have that activity in front of me to say
5 otherwise.

6 Q. And if that were the case, if Nationwide and Enchanted
7 had been wiring in more than 70 percent of the incoming
8 wires, is that something that would have triggered you to
9 look into those entities a little bit more?

10 A. No. I would have been looking at the entirety of the
11 account activity.

12 Q. The other 30 percent?

13 A. No. And their history and if it was normal for them to
14 see this activity or not.

15 Q. So if I'm a money launderer, is what I want to do is I
16 just want to keep wiring in the vast majority of money from
17 a couple of entities; is that how I get around it?

18 A. No, sir.

19 Q. In fact, the fact that wires are coming in for millions
20 and millions of dollars or hundreds of millions of dollars,
21 that would at least be something that you would think would
22 be interesting or unusual enough to look into further,
23 right?

24 A. It wasn't unusual for them.

25 Q. What wasn't unusual for them?

1 A. The incoming wires, the originators.

2 Q. So it wasn't unusual for Petters Company -- is your
3 testimony that it wasn't unusual for Petters Company, Inc.
4 to have wired in or to have -- sorry. Let me back up. Is
5 your testimony that it wasn't unusual or interesting that
6 Enchanted and Nationwide were wiring in nearly a billion
7 dollars because they had wired in hundreds of millions of
8 dollars before?

9 MS. PARLOVECCHIO: Objection.

10 THE COURT: Overruled.

11 THE WITNESS: No, that's not my testimony. My
12 testimony is as originators coming into the account, that
13 wasn't unusual to see them coming in.

14 BY MR. COLLYARD:

15 Q. To see Nationwide and Enchanted coming in?

16 A. That's correct.

17 Q. My question is if it's unusual -- at least if it's
18 unusual or interesting that two entities are wiring in
19 nearly a billion dollars out of \$1.23 billion, if that's
20 interesting or unusual enough for you to look into those
21 entities further.

22 A. Again, I don't remember looking at the alert.

23 Q. Now, when you say Enchanted had the largest wire -- for
24 \$34.8 million, right?

25 A. The largest wire was from Enchanted, is that what you

1 said?

2 Q. Yes.

3 A. Yes.

4 Q. That's what you said in your comments, right?

5 A. Yes.

6 Q. Did you look into Enchanted at all?

7 A. I don't remember.

8 Q. Do you remember anything about what you knew about who
9 Enchanted was or what Enchanted did?

10 A. I don't remember.

11 Q. Do you recall if you did any effort to look into who
12 Nationwide or Enchanted was?

13 A. I don't remember.

14 Q. Do you believe that you did look into who Nationwide and
15 Enchanted were?

16 A. I don't remember.

17 Q. Is that something that sounds like you would do?

18 A. I would look into the activity that I felt was warranted
19 for the alert, but I don't remember working the alert.

20 Q. Can you describe, Ms. Ramlow, what the legitimate
21 business purpose was for any wire from Enchanted?

22 A. I'm sorry. Say that again.

23 Q. Yeah. Can you look at your comments and determine
24 whether or not any of the wires coming in from Enchanted
25 were for a legitimate business purpose?

1 A. I'd say overall, based on my comments that I closed,
2 that the activity was expected and legitimate for the
3 business.

4 Q. And I'm trying to figure out: What was the legitimate
5 business purpose for the wires from Enchanted?

6 A. I don't remember.

7 Q. What was the legitimate business purpose for the wires
8 from Nationwide?

9 A. I don't remember.

10 Q. And can you look at your comments and say how or why the
11 wires coming in from Enchanted or Nationwide made sense for
12 the Petters Company, Inc. business?

13 A. No, I don't remember and it's not in the comments.

14 Q. If you'd go to page 51 of Exhibit 183, which would be
15 the last page of the alert, Ms. Ramlow.

16 A. You said page 51?

17 Q. Yes, page 51.

18 A. Yes.

19 Q. And just take a look at that last block. We'll just do
20 this one quickly. And it reads, "Based on the activity
21 reviewed." Do you see that?

22 A. Yes.

23 Q. What are you talking about there?

24 A. The activity that I reviewed.

25 Q. So you would have reviewed the incoming and outgoing

1 wires?

2 A. Yes.

3 Q. It says, "although this customer's wire activity value
4 and volume continues to be greater than their peers." Do
5 you see that?

6 A. I do.

7 Q. "The activity does not appear unusual and is that which
8 would be expected from a large multi-national company." Do
9 you see that?

10 A. I do.

11 Q. Now, when you say "greater than their peers," do you
12 know how or why you concluded that?

13 A. Because they alerted.

14 Q. Do you know how or why you concluded that the activity
15 was greater than Petters Company, Inc.'s peers?

16 A. Because they -- I'm talking about the peer group they
17 alerted in.

18 Q. And you understand, Ms. Ramlow, that it wasn't just
19 greater than the peers, it was hundreds and hundreds of
20 millions of dollars greater than the peers, right?

21 A. I don't know that.

22 Q. Is that something that you would have compared and
23 looked at?

24 A. We're comparing them against themselves. I wouldn't be
25 looking at all the other customers of the bank.

1 Q. You would be comparing Petters Company, Inc. against the
2 peer group, right?

3 A. I would be looking at Petters against what their
4 activity is.

5 Q. Let's go to Exhibit 182 just real quickly. Can you go
6 to Exhibit 182 for me, please, and if you can turn to
7 page 67 of Exhibit 182.

8 A. I have it.

9 Q. Are you familiar with this document, Ms. Ramlow?

10 A. It's an excerpt from Searchspace.

11 Q. And this is the alert for 69663, correct?

12 A. It is.

13 Q. And if you'd take a look where it says, "Incoming Wire
14 Deposit." Do you see that?

15 A. I do.

16 Q. It shows the value of the incoming wires to be
17 \$552 million for the month of July; is that right?

18 A. Yes.

19 Q. And to the left it says, "Peer Monthly Value Event." Do
20 you see that?

21 A. I do.

22 Q. And then if you look to the right of the \$552 million,
23 it's comparing it to an average, right?

24 A. It is.

25 Q. And that average is the peer group, correct?

1 A. Yes.

2 Q. So the peer group, the average for the peers in the
3 business banking group that Petters Company, Inc. is being
4 compared to, had average value of wires for \$5.6 million,
5 right?

6 A. That's correct.

7 Q. So, now, if we go back -- now, do you agree with me when
8 you say that it was -- that the value continues to be
9 greater than their peers, it's not only greater, it's
10 greater by half a billion dollars?

11 A. Yes.

12 Q. And if we just go back to Exhibit 183 on page 51 and
13 pull up that -- pull up that bottom block again, it says,
14 "the activity does not appear unusual." Do you see that?

15 A. Yes. Can you tell me what number it was under again on
16 the exhibits?

17 Q. Yes, Exhibit 183, page 51.

18 A. Okay. I have it.

19 Q. Now, Ms. Ramlow, you can't tell us why you concluded or
20 how you concluded that the activity does not appear unusual,
21 can you?

22 MS. PARLOVECCHIO: Objection, vague as to what
23 activity.

24 THE COURT: Overruled. She may answer.

25 THE WITNESS: I have my comments here. It's based

1 on the activity that I looked at, it doesn't appear unusual
2 for the client.

3 BY MR. COLLYARD:

4 Q. So other than what is said in the highlighted words, can
5 you tell the jury any other reason for how or why you
6 concluded that the activity does not appear unusual?

7 A. No.

8 Q. Let's stay on Exhibit 183 and let's go to Alert 67366,
9 which is on page 43. And if we go to second page of the
10 alert, which is page 44 of Exhibit 183, if we go to the
11 middle section, we see that for this alert, Ms. Ramlow,
12 there is 410 incoming wires for a total of 1.249 billion,
13 right?

14 A. Yes.

15 Q. And if we look at the outgoing wires, the outgoing wires
16 that were alerted were for \$1.254 billion, right?

17 A. That's correct.

18 Q. And those are similar numbers, right?

19 A. They are close.

20 Q. And if we go back to the middle of the page underneath
21 the incoming wires and bring in the block describing the
22 incoming wires, we see another entry where it says the wires
23 were primarily from Enchanted, Nationwide, and you list a
24 couple others, right?

25 A. Yes.

1 Q. And, again, you're using the word "primarily" because
2 that signifies that those wires were the most wires coming
3 into the account, right?

4 A. Yes, they were primarily the wires coming in.

5 Q. And you were documenting what you saw and what you
6 researched, correct?

7 A. Correct.

8 Q. Do these comments -- do you explain in your comments
9 anything about who Nationwide or Enchanted was or why they
10 were wiring in the money they were wiring in?

11 A. No, not in these comments.

12 Q. And, Ms. Ramlow, do you remember how much or what the
13 value was from the wires coming in from Nationwide and
14 Enchanted?

15 A. I don't remember.

16 Q. If I told you that it was \$977 million out of
17 \$1.24 billion, does that help you refresh your recollection?

18 A. I don't remember.

19 Q. And that would be -- if that were the case, Ms. Ramlow,
20 that would be 78 percent of the incoming wires, right?

21 A. Math-wise it sounds -- I don't know.

22 Q. And if you have nearly a billion dollars coming in from
23 two entities, do you agree with me that that would at least
24 be interesting or unusual that would require you to go and
25 look a little bit further as to why that was?

1 A. Again, I don't remember working the alerts. So that
2 doesn't mean I didn't.

3 Q. And this alert has \$1.2 billion coming in and out, and
4 the last alert we looked at had \$1.2 billion going in and
5 out, right?

6 A. I believe so.

7 Q. Is that a -- do you agree that that could be part of a
8 pattern of billion dollar wires going in and out of an
9 account?

10 A. I think that would be it looks like it was expected for
11 the client for that type of value every month.

12 Q. And is that something that would have been interesting
13 or unusual, then, to look at, to see why, to see why there
14 continues to be billions of dollars for the same amount
15 going in and out of an account?

16 A. I don't remember working the alert.

17 Q. I mean, the job of an anti-money laundering analyst was
18 to look for patterns of activity, right?

19 A. Yes.

20 Q. And if you go back to what Searchspace did, what
21 Searchspace did is it fed -- what Searchspace did is it fed
22 the anti-money laundering analysts certain information about
23 the wires, correct?

24 A. Searchspace consumed the wire information.

25 Q. And Searchspace would provide information about the wire

1 activity to the analyst, correct?

2 A. It would trigger an alert.

3 Q. And included in that, it would tell the analysts or the
4 Anti-Money Laundering Group the value of the wires, right?

5 A. In the alert description, yes.

6 Q. It would give the analysts or the Anti-Money Laundering
7 Group the number of the wires, right?

8 A. For that month there would be alert details. I can't
9 remember everything that was in there.

10 Q. And it would also include the names, the names on the
11 wires, right?

12 A. Yes.

13 Q. Okay. So the Anti-Money Laundering Group or the
14 anti-money laundering analysts could see how much was coming
15 in, how many wires there were, and who was wiring the money
16 in, right?

17 A. They could see the originators and beneficiaries, yes.

18 Q. And then from that, the anti-money laundering analysts
19 had to look at that information to determine whether or not
20 it needed to be looked into further; is that right?

21 A. When they looked at all of the activity together, yes.

22 Q. Would you describe the role of an anti-money laundering
23 analyst to be a research-intensive job?

24 A. Yes, you are investigating.

25 Q. Let's go to -- stick on Exhibit 183. Let's go to the

1 last alert that you did. That's Alert 80215. It's on
2 page 55 of Exhibit 183.

3 And if we just take a look at the top, just to
4 orient ourselves, this was September of 2006. Do you see
5 that?

6 A. I do.

7 Q. And this is an alert that you closed, correct?

8 A. Yes.

9 Q. And this one covers the time period of September through
10 November of 2006; is that right?

11 A. This is September, October, and November.

12 Q. Okay. So it covers September through November of 2006;
13 is that right?

14 A. Correct.

15 Q. And if we just take a look on page 56 and we start with
16 the top there where it says -- you agree that this is an
17 alert for incoming and outgoing wires for both value and
18 volume. Do you see that?

19 A. Yes, it was value and volume.

20 Q. Okay. And then if we look at the actual wires, you list
21 here -- for the incoming wires you give a range, right?

22 A. I do.

23 Q. But you don't give the total for the amount of incoming
24 wires coming in, do you?

25 A. No.

1 Q. And you do the same thing for the outgoing wires, you
2 list a range, but you don't list the totals, correct?

3 A. No.

4 Q. Do you know why you did that?

5 A. I don't remember.

6 Q. Would there be any reason for not including the totals?

7 A. No. This appears to be also under the QAPOR review
8 process, but I don't remember why I didn't put a total.

9 Q. Do you understand what the QAPOR process is?

10 A. The QAPOR process was a review that -- for alerts
11 where -- if it was a client that had frequently alerted,
12 where we could put them -- they would have analysis, so they
13 would go through a manager review. You would have to look
14 at other criteria for this, but allow them to have a
15 condensed review. It didn't mean that you didn't look at
16 all the activity. You looked at all the activity, but you
17 had the ability to condense your comments.

18 Q. Well, one of the first things that you did on a QAPOR
19 review is you had to go and look to see what the events were
20 and what the scores were, right?

21 A. I don't remember.

22 Q. You don't recall that?

23 A. I don't remember the exact process.

24 Q. Do you recall that you had to go and you had to look at
25 the actual events to see if the scores were at a certain

1 level and that determined the level of explanation and
2 documentation that you had to make in the comments section
3 in Searchspace?

4 A. Can you say that again?

5 Q. Yes. Do you know that as part of the QAPOR review, one
6 of the first things that an anti-money laundering analyst
7 had to do was go and look at the events that were alerted?

8 A. Yes, you do that for every review.

9 Q. And then you would have to figure out if those events
10 were for a certain amount, that would determine the level of
11 documentation and review that you would give in the comments
12 section of Searchspace?

13 A. No. It would depend if they were on the list or not.

14 Q. So your understanding for QAPOR is that you did not have
15 to go and look to see --

16 A. No.

17 Q. I'm sorry. -- if there were certain events numbers and
18 if those event numbers triggered at a certain amount, that
19 would determine the level of explanation that you gave?

20 A. I'm not understanding your question. I'm sorry.

21 Q. Do you recall, Ms. Ramlow, that there was a process to
22 follow when -- under the QAPOR expedited review process?

23 A. There was a review process. I don't remember it off the
24 top of my head.

25 Q. Do you recall how that process worked?

1 A. In what way?

2 Q. In how you would go about reviewing an alert under the
3 QAPOR process.

4 A. I don't remember every step.

5 Q. Okay. I'm sorry. We'll just do this real quick. I'll
6 just show you something.

7 A. Sure.

8 Q. If you'd go to Exhibit 182. And we'll come back to
9 this.

10 A. Okay.

11 Q. And we go to page 79 of Exhibit 182, this is the alert
12 score for -- this is the alert for 80215, right?

13 A. Yes. These are the events.

14 Q. These are the events, correct?

15 A. Correct.

16 Q. Do you have an understanding that as part of the QAPOR
17 process, one of the things you would do is you would go and
18 look at the events scores to see if those scores were
19 greater than 15?

20 A. I don't remember that process.

21 Q. And do you have an understanding that if the scores were
22 greater than 15, you have to do the same level of
23 explanation and review as you would do for the closed to
24 expected activity state?

25 A. Again, I don't remember the whole process.

1 Q. Okay. Let's go back to Exhibit 183, page 56. I was
2 asking you about the ranges and then you noted that it was a
3 QAPOR review. Do you remember that?

4 A. Um-hum, yes.

5 Q. And I was asking you if you recall why you did not list
6 the total value of the incoming wires and the outgoing
7 wires. Do you remember that?

8 A. I do.

9 Q. Do you remember for this particular alert what the total
10 value of the incoming and outgoing wires were?

11 A. No.

12 Q. If I told you that the incoming wires were for
13 \$2.1 billion, would that help refresh your recollection?

14 A. I don't remember.

15 Q. Would you have any reason to disagree with me?

16 A. No, but I don't have the information in front of me.

17 Q. If I told you that the outgoing wires -- the value of
18 the outgoing wires was for \$2.106 billion, would that help
19 refresh your recollection?

20 A. Again, I don't remember working the alert.

21 Q. Do you recall how much money Enchanted and Nationwide
22 wired in on this alert?

23 A. No, I don't remember.

24 Q. If I told you that -- to speed it up, if I told you that
25 Nationwide and Enchanted together wired in \$1.6 billion out

1 of the \$2.1 billion, would that help refresh your
2 recollection?

3 MS. PARLOVECCHIO: Objection as to the improper
4 form of refreshing recollection.

5 THE COURT: Overruled. You may answer if you can.

6 THE WITNESS: I don't remember.

7 BY MR. COLLYARD:

8 Q. If Enchanted and Nationwide were wiring in \$1.6 billion
9 out of \$2.1 billion, would that be something that you would
10 think would at least fall in the category of being
11 interesting or unusual enough to look into further?

12 A. Based on my comments, I did not think any further review
13 was necessary.

14 Q. And can we look at your comments and determine what any
15 legitimate business purpose was for any wire from Enchanted
16 or Nationwide?

17 A. Not from the comments, but you weren't required in a
18 general review to put a comment for every single purpose use
19 for every wire that you looked at --

20 Q. Nothing --

21 A. -- in a review.

22 Q. I'm sorry. Are you done?

23 A. Yes.

24 Q. Nothing prevented you or precluded you from explaining
25 what the legitimate business purpose was for Enchanted or

1 Nationwide wiring in \$1.6 billion, correct?

2 A. Ask that again. Sorry.

3 Q. Nothing prevented you or precluded you from explaining
4 why you thought there was a legitimate business purpose for
5 \$1.6 billion coming in from Nationwide and Enchanted?

6 A. I don't remember.

7 Q. And then if we just go down to the very bottom on
8 page 56 of Exhibit 183, I just want to ask you this,
9 Ms. Ramlow: The part where you say -- you say, "The wire
10 activity is consistent with previous reviews, with similar
11 beneficiaries and originators, and is expected for this type
12 of business." Do you see that?

13 A. I do.

14 Q. You can't look at your comments here and understand what
15 type of business Petters Company, Inc. is in, can we?

16 A. Not from the comments.

17 MR. COLLYARD: I have no further questions, Your
18 Honor. Thank you, Ms. Ramlow.

19 THE COURT: Members of the Jury, as we're making
20 this transition, you may stand up at your seat, take a
21 stretch break if you would like. And our plan is to take a
22 break at 3 o'clock.

23 (Pause)

24 THE COURT: Okay.

25 MS. PARLOVECCHIO: May I proceed, Your Honor?

Ramlow - Direct

1 THE COURT: You may proceed.

2 MS. PARLOVECCHIO: Thank you, Your Honor.

3 THE COURT: You're welcome.

4 **DIRECT EXAMINATION**

5 BY MS. PARLOVECCHIO:

6 Q. Good afternoon, Ms. Ramlow.

7 A. Hi.

8 Q. Now, when did you learn that Tom Petters and his
9 entities, including PCI, were involved in a Ponzi scheme?

10 A. In the 2008 time frame.

11 Q. And do you recall how you learned about it?

12 A. I think I remember learning about it through the news.

13 Q. Did you know there was a Ponzi scheme happening before
14 you learned about it from the news in 2008?

15 A. No, I did not.

16 Q. Now, you testified under questioning by plaintiff's
17 counsel that you were likely shocked and confused when you
18 learned about the Petters Ponzi scheme. What did you mean
19 by that?

20 A. I meant that I was confused given we had an
21 understanding of what we thought Mr. Petters was operating
22 legitimately in through many companies that were familiar to
23 us even as consumers. So it was confusing to hear the news.

24 Q. Now, I just want to take a step back for a moment and
25 ask you a bit more about your background in addition to what

1 plaintiff's counsel covered.

2 Can you just tell us where you currently live
3 right now.

4 A. I live in Greendale, Wisconsin.

5 Q. And can you please tell the jury where you grew up.

6 A. I grew up in Sydney, Australia.

7 Q. And what brought you to Wisconsin?

8 A. I came to visit my father, who is from here, and decided
9 to stay.

10 Q. Are you married?

11 A. I am married.

12 Q. And any children?

13 A. I have one daughter.

14 Q. And how old is she?

15 A. She's 18.

16 Q. Now, can you tell us about your post high school
17 education.

18 A. Sure. My post high school? I went to the University of
19 Wisconsin. I have a bachelor's degree in sociology. And I
20 most recently got my master's in business administration
21 this year.

22 Q. Congratulations.

23 And when did you graduate college?

24 A. I think my bachelor's was in 2003.

25 Q. Do you have any professional certifications?

Ramlow - Direct

1 A. I do. I am a certified anti-money laundering specialist
2 and -- sorry. Go ahead.

3 Q. Go ahead.

4 A. And I'm also an advisory board member on the Center for
5 Financial Professionals as well.

6 Q. What do you do in that capacity?

7 A. So for the advisory board, I provide them with input on
8 industry trends that we maybe need to talk about at
9 conferences or in other literature that they publish. And
10 then if they need to publish documents and need input on
11 trends in the industry, they will ask for my input.

12 Q. And you testified that you are a certified anti-money
13 laundering specialist. Can you just describe for the jury
14 how you obtained that certification.

15 A. Sure. You study and you take a test.

16 Q. And who issues that certification?

17 A. The Association of Certified Anti-Money Laundering
18 Specialists.

19 Q. Have you ever spoken at a banking or AML-related
20 conference?

21 A. I have.

22 Q. Approximately how many times?

23 A. At least five or more times.

24 Q. And what topics have you covered?

25 A. Covered topics on trends in AML, business practices for

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1 SARs or Suspicious Activity Reports or even technology in
2 the industry, what's evolving, what are we using.

3 Q. Did M&I and later BMO require you to take any sort of
4 educational hours as part of your job?

5 A. We were required to take training hours every year, yes.

6 Q. Do you recall how many hours?

7 A. It was like 12 to -- I think 12 to 18 hours, so one
8 credit per hour.

9 Q. And what's your understanding of why the bank required
10 you to take that type of training?

11 A. It was required because they wanted to make sure that
12 you understood what was expected of you as an employee when
13 it came to the Bank Secrecy Act, and they wanted to make
14 sure that you understood, too, that those of us who were in
15 AML were keeping up with AML trends.

16 Sorry.

17 Q. No worries.

18 A. Go ahead.

19 Q. Can you tell the jury why you decided to pursue a career
20 in the banking industry.

21 A. Well, I started as a teller, and I joined because I'd
22 always been interested in banking operations and I wanted to
23 learn more about how banks worked and so that's why I joined
24 banking.

25 Q. You previously testified that you started at M&I Bank in

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1 January 1996. Could you just tell us what your position was
2 when you started there?

3 A. Sure. I was a teller in the branch in 1996.

4 Q. Now I want to direct your attention to 2001. What was
5 your role in the bank at that time?

6 A. By that time I was what they called an internal review
7 analyst. So I worked for a group called Internal Review and
8 Control under M&I support services, is what the company was
9 called, and we reviewed processes in the bank operations.
10 So we made sure that they were running appropriately, if
11 there was recommendations for process or anything was out of
12 compliance from a bank operations perspective.

13 Q. Now, you testified that you became an analyst in 2004;
14 is that right?

15 A. That's right, June of 2004.

16 Q. And you became a lead analyst after that?

17 A. Yes, in 2007.

18 Q. And what was your next role after you were a lead
19 analyst?

20 A. By 2008 sometime I was a supervisor for the AML
21 Monitoring Group.

22 Q. Now, you testified during your testimony under
23 plaintiff's counsel's questioning that you had served in
24 multiple different roles in anti-money laundering over the
25 years --

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1 A. Um-hum.

2 Q. -- at M&I Bank and then BMO. In total, how long has
3 your role at the bank involved BSA and AML programming?

4 A. About 18 years.

5 Q. Now, you testified that you're currently the managing
6 director of AML systems, data, innovation, and operations
7 for BMO. Do I have that right?

8 A. That's correct.

9 Q. And what are your duties in that role?

10 A. So for this role, I oversee the teams that monitor and
11 manage our AML systems, so the systems that our
12 investigators use. They also validate and make sure our
13 data is quality. I have teams that innovate or create
14 reporting solutions for the investigators to help them
15 investigate. And I also have the operations team that's
16 responsible for employee engagement, budgeting, things like
17 that.

18 Q. Now, just turning your attention back to June 2004 when
19 you became an AML analyst, what prompted you to join that
20 group?

21 A. It was really 9/11. So 9/11 happened in 2001. I wanted
22 to be part of something. I wanted to be something that I
23 could make a difference and it was exciting to be part of
24 this new group, and so that's why I joined AML.

25 Q. Could you just describe for us the culture of the AML

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1 Group when you joined in June 2004.

2 A. It was exciting. It was people from different areas of
3 the bank. We all wanted to learn more about AML, evolve the
4 program, and we were excited to be there and just to
5 continue to learn and evolve.

6 Q. How, generally, would you describe the organizational
7 structure of M&I's BSA and AML program in the 2004 to 2008
8 time frame?

9 A. So it was really, you know, BSA officer -- I'm sorry.
10 You asked for organizational structure?

11 Q. Yes.

12 A. So BSA officer would sit at the top and then you would
13 have other compliance teams for all the other regulations,
14 but then there were AML committees for all the policies that
15 were discussed. And there was also the AML Monitoring Group
16 team, which is what I was in, which sat below that.

17 MS. PARLOVECCHIO: Mr. Herzka, could I have
18 Defendant's DD-3, please.

19 And, Your Honor, I'm just offering this as an aid
20 to the jury, not as an exhibit.

21 BY MS. PARLOVECCHIO:

22 Q. So, Ms. Ramlow, I'm showing you what's marked for
23 identification as DD-3. Can you please describe for the
24 jury what we're looking at here.

25 A. So, again, this is a really high-level view of our

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1 organization.

2 So we had a compliance officer, which is, you
3 know, a core part of your AML program.

4 We had a Corporate AML Committee, so that had
5 representation of different leaders across the bank who were
6 all responsible for having some say about AML.

7 And then an SAR Committee, where we would review
8 our Suspicious Activity Reports.

9 Followed by other compliance individuals, AML
10 subject matter experts that would do other AML work outside
11 of monitoring like our team was doing.

12 And then the AML Monitoring Group, which is what I
13 was in.

14 Q. And can you just demonstrate for the jury using your
15 screen -- you actually, I believe, can mark it -- where your
16 role would have been situated on this chart.

17 A. Do you want me to just point up there or down here
18 (indicating)?

19 Q. You can try to circle it on your screen. There you go.

20 A. Down here (indicating).

21 Q. All right. So what were the responsibilities of AML
22 analysts in the 2004 to 2008 time frame?

23 A. Their primary responsibility were to adjudicate the
24 alerts that were coming out of Searchspace to determine if
25 there was activity that should be escalated for further

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1 review and potential suspicious activity reporting or
2 filing.

3 Q. And what were the actual roles that were inhabited in
4 that AML Monitoring Group?

5 A. So the roles started out at an analyst. You could be an
6 analyst, a lead analyst. There was a supervisor, I believe
7 an assistant manager, and a manager.

8 Q. Approximately how many AML analysts were actually in the
9 AML Monitoring Group in the 2004 to 2008 time frame?

10 A. So when we started in 2004, I think it was only three or
11 four of us. By 2008 it was probably 10, 12, 15 of us or
12 more.

13 Q. How did you view your job when you worked as an AML
14 analyst?

15 A. I loved it.

16 Q. What did you love about it?

17 A. I loved investigating. I loved being a part of the team
18 and a part of the program.

19 Q. Now, focusing you on the lead AML analyst role, what
20 were the responsibilities of the lead AML analyst during
21 this 2004-2008 time frame?

22 A. So as a lead analyst, you are not so much working alerts
23 anymore; you are managing the work flow. So Searchspace,
24 which was our monitoring tool, you had to assign alerts to
25 the other analysts so they could work them and you had to

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1 work them by a particular time frame. That was what was
2 required under the law.

3 And so the lead analyst is making sure that those
4 alerts are getting assigned, that they are getting it done
5 timely. Also helping with coaching, maybe a little bit of
6 training. And then also assisting the managers with any
7 support they needed.

8 Q. I noticed you used the term "coaching." What do you
9 mean by that?

10 A. It just means providing guidance. So if they have --
11 analysts had questions or they didn't know where to look for
12 a particular research item or they weren't sure which
13 direction maybe to go through next, you could kind of sit
14 down and talk it through with them on -- and try to
15 understand and give them guidance on maybe next steps for
16 them to consider.

17 Q. Could you describe for us the responsibilities of the
18 AML manager during this time frame.

19 A. So the AML manager was primarily responsible for the HR
20 or the human resource aspect, so they had the analysts
21 reporting to them. And then they were also reviewing the
22 majority of the Suspicious Activity Reports or cases that
23 were coming through for filing. They also would have input
24 to procedures and be on the other committees that we have
25 shown on the screen here.

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1 Q. Now, you previously testified that you received training
2 at M&I Bank. How frequently did the AML Monitoring Group
3 undergo training during the relevant 2004 to 2008 period?

4 A. It was quite frequently, and the training could be
5 internal or it could be external. We were able to -- you
6 know, if somebody was able to go to a conference and bring
7 that information back and share it with the team, we would
8 do that; or we would have team meetings and do training that
9 way.

10 Q. And can you just give a general overview about what
11 these trainings covered.

12 A. So externally the trainings were on, you know, the top
13 trends that the AML or fraud industry was seeing, maybe it
14 was best practices with Suspicious Activity Report filing,
15 like what did law enforcement want to see, what were
16 keywords and things that you would want to put in your
17 narrative; or it might be new policy and legislation coming
18 down. So that was the sort of external training that was
19 brought in.

20 Q. Now, as to the internal training you mentioned, who
21 would generally conduct those trainings?

22 A. It would depend. I mean, it might be the manager. It
23 could be a lead. Sometimes if a case was interesting, we'd
24 have an investigator present that so that the other
25 investigators could see what that investigator had found and

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1 we could learn from it and train others to look for it. So
2 it really depended on the topic.

3 Q. How would you describe the tone of those in-house
4 trainings that you attended during the relevant period?

5 A. We were engaged, the team was engaged. It was --
6 everybody wanted to learn more or have as many tools as
7 possible that we could learn from others, peer banks or
8 others in the industry, in addition to whatever other staff
9 members were seeing. So we were engaged in -- as part of
10 the training.

11 Q. Now, you testified that as to the external trainings you
12 attended, that sometimes people in the AML Group would bring
13 the information back from those trainings.

14 Were you able to observe what the AML analysts did
15 with the information that was conveyed at those external
16 conferences and brought back?

17 A. They would -- we'd either -- you know, I don't remember
18 off the top of my head, but they would -- you know, we'd
19 either update our procedures or we'd have further training
20 on it and make sure that they were applying it in their
21 cases as they went forward.

22 Q. Now, based on these trainings from the 2004 to 2008
23 period, what was your understanding about the principal
24 crimes that were related to money laundering that analysts
25 were supposed to be looking at during that time frame?

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1 A. I would say that anything particularly with cash, but
2 definitely drug trafficking; terrorist financing was
3 certainly top of mind, especially given it was still really
4 raw with 9/11; and cash structuring, I would say, in
5 particular.

6 Q. And could you just describe for the jury what
7 structuring is.

8 A. So structuring is when a customer evades currency
9 transaction reporting. So every time that you come into the
10 bank and you deposit or you withdraw cash over \$10,000, you
11 have to fill out a form. If you don't want to fill out the
12 form and you walk away or you change your transactions to
13 avoid that form, which goes to the IRS, that's called
14 structuring.

15 Q. Now, you previously testified that you're trained on the
16 Bank Secrecy Act. Can you describe briefly what the Bank
17 Secrecy Act is.

18 A. So the Bank Secrecy Act is legislation/law that was
19 passed in the 1970s primarily at that time for the purpose
20 of making sure that banks, financial institutions put in
21 controls to detect tax evasion and money laundering.

22 Q. Now I want to direct your attention to what's in
23 evidence as Plaintiff's Exhibit 4 and I'm going to focus you
24 on slide 16. And can you just read the title here.

25 A. "Risks of Non-Compliance."

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1 Q. And what does the second bullet say?

2 A. "Civil and criminal penalties and fines against
3 financial institutions and their employees are possible."

4 Q. What was your understanding of this concept during the
5 relevant time frame?

6 A. It meant that if we didn't escalate, if we didn't report
7 activity, we could be liable not only as an institution, but
8 as an individual to civil and criminal penalty.

9 Q. Now, did your training also include discussions of the
10 USA PATRIOT Act?

11 A. It did.

12 Q. Can you briefly describe for the jury what the USA
13 PATRIOT Act is.

14 A. So the USA PATRIOT Act is legislation that was passed
15 shortly after 9/11, and its job was to enhance the ability
16 of law enforcement and financial institutions to share
17 information between each other, in addition to other
18 enhancements to the Bank Secrecy Act.

19 Q. And what was that -- the purpose behind that increased
20 ability to share information?

21 A. So we could find -- we could talk to each other more
22 frequently, easier to find the activity, especially for
23 terrorist financing.

24 Q. I want to focus you back on Plaintiff's Exhibit 4 and
25 now looking at slide 12. And just generally, what do we see

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1 on this slide?

2 A. So this slide is representing the -- I would say the
3 history or how the Bank Secrecy Act has evolved over the
4 course of time.

5 Q. And just focusing you on that last bullet, what is this
6 referring to?

7 A. So this is the USA PATRIOT Act, which was passed after
8 9/11, especially for the purpose of enhanced detection for
9 terrorist financing.

10 Q. Now, you previously testified you were also trained on
11 the concept of suspicious activity?

12 A. Yes.

13 Q. What, if any, suspicious activity became the focus of
14 anti-money laundering review following the passage of the
15 USA PATRIOT Act?

16 A. So you're looking for just examples?

17 Q. Well, suspicious activity as it -- suspicious activity
18 that became the focus after the USA PATRIOT Act was passed.

19 A. Oh, I see what you're saying. Terrorist financing in
20 particular, which during 9/11 it was, you know, smaller --
21 there was cash, there was checks, there was wires, but it
22 was primarily cash that we were looking and really focused
23 on as well.

24 Q. Now, was an AML analyst's role to look specifically for
25 money laundering?

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1 A. No.

2 Q. What were you looking for?

3 A. We were looking for activity that could be indicative of
4 potential money laundering.

5 Q. Now, based on your training and experience as an AML
6 analyst, who would be responsible for actually going out and
7 looking for money laundering?

8 A. Law enforcement would be responsible for the actual
9 investigation and making that determination.

10 Q. Did your BSA/AML trainings include discussions of "know
11 your customer"?

12 A. They did.

13 Q. And can you describe for the jury what "know your
14 customer" meant in the 2004 to 2008 time frame for you as an
15 analyst.

16 A. As an analyst, it was really about the collection of
17 information at onboarding, knowing who they were in terms of
18 identifying information.

19 Q. Now I'd like to show you what's already in evidence as
20 Plaintiff's Exhibit 5 and I'm going to direct you to
21 slide 31. And this is entitled Know Your Customer
22 Understand Their Activities. Do you see that?

23 A. Yes.

24 Q. What is your general understanding of what this slide is
25 describing here?

1 A. For "know your customer," it's about asking questions
2 that might be unusual and trying to figure out what would be
3 unusual for that client.

4 Q. Could you just, please, read the second bullet.

5 A. Sure. "Ask questions when encountered by transactions
6 that are unusual for that particular customer."

7 Q. So let's just break that down a bit. First, what is the
8 term "unusual activity" mean for an AML analyst during this
9 time frame?

10 A. So unusual is something -- activity can be unusual
11 versus -- maybe I'll break it down this way -- versus
12 suspicious. So you can do something unusual, so I could --
13 you know, maybe it's unusual for me to withdraw \$2,000 in
14 cash because usually I just use my debit card. But when you
15 look at my payroll, you would be like it's not suspicious
16 because you can see what's coming into the account. So
17 unusual versus suspicious is two different definitions, I
18 would say.

19 Q. Now, what is your understanding, based on this slide,
20 about what you were supposed to know about a customer when
21 you were an analyst back in that time frame?

22 A. You're supposed to understand, with the information that
23 you have available to you, what type of customer or what
24 type of business and who they are and what transactions we
25 might expect.

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1 MS. PARLOVECCHIO: You can take that down,
2 Mr. Herzka. Thank you.

3 May I please have what's in evidence as
4 Defendant's Exhibit 40067.

5 BY MS. PARLOVECCHIO:

6 Q. And focusing you on slide 37, which I believe is
7 page 38. Now, under questioning by plaintiff's counsel, you
8 were asked questions about this slide. Do you recall those
9 questions?

10 A. I do.

11 Q. Does the Anti-Money Laundering Group handle enhanced due
12 diligence?

13 A. We don't. We're not collecting it. But we can -- if
14 it's available, we can review it, but that is performed by
15 the first line of the bankers.

16 Q. So, to be clear, that's not a responsibility --

17 A. No. No, we don't collect it.

18 Q. I want to focus you on the second bullet here that says,
19 "Perform enhanced due diligence for higher-risk customers."

20 To your understanding, was PCI considered a
21 higher-risk customer?

22 A. No.

23 Q. Now, are "know your customer" standards the same today
24 as they were back in the 2004 to 2008 time period?

25 A. I would say they have evolved.

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1 Q. And just to be clear, in the 2004 to 2008 time frame was
2 an AML analyst supposed to collect additional information
3 about their customer and business?

4 A. An AML analyst was not doing that, no.

5 MS. PARLOVECCHIO: Thank you, Mr. Herzka.

6 BY MS. PARLOVECCHIO:

7 Q. Now, I want to turn your attention to the period when
8 you joined the AML Group in 2004. At that time how did AML
9 analysts review transactional activity to detect suspicious
10 transactions?

11 A. In the two thousand --

12 MR. COLLYARD: Objection, Your Honor, as to AML
13 analysts as opposed to what Ms. Ramlow did.

14 THE COURT: Overruled. You may answer if you
15 know.

16 THE WITNESS: I'm sorry. Can you ask the question
17 again?

18 BY MS. PARLOVECCHIO:

19 Q. Sure. So when you joined the group back in 2004 --

20 A. Yes.

21 Q. -- at that time how did AML analysts review
22 transactional activity to detect suspicious transactions;
23 what was the method?

24 A. It was in paper form, so it was actually very manual.

25 We had a report that was produced monthly and it focused

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1 primarily on cash transactions. And when the report came
2 out monthly, you would -- you know, as an analyst, you would
3 go through each piece of paper, looking at each client and
4 reviewing them.

5 Q. What type of transactions were the focus of this manual
6 review process that you have just described?

7 A. Cash.

8 Q. Did the manual review also involve review of wire
9 transfers?

10 A. I don't remember.

11 Q. How, if at all, did the process for reviewing
12 transactions change after 2004?

13 A. After 2004, by 2005 we had implemented the Searchspace
14 automated monitoring system.

15 Q. And could you just clarify for the jury how Searchspace
16 actually worked.

17 A. Sure. So Searchspace was like a database or think of
18 it, you know, like a system that would consume the
19 customer's transactions and then there were parameters
20 placed around looking for certain activity and then an alert
21 would be produced.

22 Q. And would AML analysts then review those alerts?

23 A. Yes.

24 Q. Now, did a -- what, if any, scoring system existed in
25 the Searchspace system?

1 A. I don't remember the scoring system.

2 Q. Do you recall that a scoring system existed in the
3 Searchspace system?

4 A. Yes.

5 Q. Did the scores at Searchspace applied to alerts have any
6 significance to you in terms of how you would review an
7 alert back when you were an AML analyst?

8 A. No.

9 Q. What if the score was well above the score threshold
10 that would trigger an alert, would that affect what you
11 would do?

12 A. It wouldn't change the review process.

13 Q. Can you describe for the jury the process that an AML
14 analyst, such as yourself, back in that time frame would
15 follow once an alert was triggered in Searchspace.

16 A. Sure. So you would go into Searchspace. You would open
17 up your queue. You'd select an alert to look at. You would
18 click on it, open it up, see the events that you should be
19 focusing on or the transactions that you should be focusing
20 on, and then you could see all the transactions in
21 Searchspace.

22 From there you could use the other tools that
23 we've discussed, like the MIContacts or additional details
24 that might be in the wire system or a check image system, to
25 kind of look at that activity.

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1 Q. Okay. So I want to just break that down a bit. First,
2 how would an analyst come to start looking at an alert?
3 Would it be assigned?

4 A. It would be assigned to them, yes.

5 Q. And who would do that assigning?

6 A. Usually a lead.

7 Q. And was there any reason why an alert would be assigned
8 to a particular analyst?

9 A. No.

10 Q. Was it random?

11 A. Yes, that's how I remember it.

12 Q. Approximately how long would it take an analyst to
13 review an alert?

14 A. On average it could take 30, 45 minutes to an hour. It
15 depended on the complexity of what they needed to look at.

16 Q. Were there any incentives from M&I Bank for AML analysts
17 to close alerts?

18 A. No.

19 Q. Now, you also testified that AML analysts would review
20 an alert using various tools. What sorts of resources did
21 AML analysts consult when they would review an alert?

22 A. Sure. So, again, they would look at -- tool-wise, they
23 would have MIBcontacts, the check imaging system, the
24 internet, and the wire system that we had access to.

25 Q. Now, you mentioned the internet. What kinds of

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1 resources on the internet would an analyst consult during
2 this era?

3 A. It was -- I don't know that we had Google back then. It
4 was whatever search engine was available at that time back
5 in 2004 or '05. We would use that to search for the client
6 for any adverse information or any other information, maybe
7 a website.

8 You could also use the internet to look for -- in
9 some states they had court information that would be
10 available actually to anyone that you could go in and look
11 at. So if you wanted to see if someone had any court
12 proceedings ahead of them or any tickets or anything like
13 that, you could look into those sorts of things in the
14 internet at the time.

15 Q. Now, as an analyst, when you're conducting your review,
16 would you focus on one piece of information or multiple
17 pieces of information?

18 A. Multiple.

19 Q. And what was the purpose of looking at multiple pieces
20 of information?

21 A. To make sure you vetted and you understood everything
22 that was available to you to help you make the decision.

23 Q. If a transaction alerts in Searchspace, does that mean
24 that automatically the activity is unusual?

25 A. No.

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1 Q. And you testified earlier about the training you
2 received as an analyst. Can you provide some examples of
3 what factors would cause an AML analyst to identify
4 transaction activity as potentially suspicious as opposed to
5 unusual.

6 A. Sure. So suspicious could be, for example, a grocery
7 store, you'd expect them to deposit cash and to have change
8 that would go with that cash. So if they are depositing
9 cash but they never go over that \$10,000 threshold and it's
10 round dollars in cash, that would be suspicious as to why
11 they are not going over that threshold and why there's no
12 change.

13 You could have someone who has no connection maybe
14 to a foreign jurisdiction and they are wiring funds to a
15 country that is predominantly a tax haven, such as, you
16 know, the British Virgin Islands or Panama or somewhere like
17 that.

18 Q. Now, you previously testified that suspicious activity
19 is not the same thing as unusual activity?

20 A. Right.

21 Q. Could you give an example of how you would distinguish
22 the two.

23 A. So an unusual activity, it's a trigger to look at it,
24 but it might not be suspicious until you look at it.

25 So unusual might be someone who opens an account

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1 and they bring in a check, and then within the next ten days
2 they withdraw it all in cash right away. So that is
3 unusual, but you need to make a determination as to -- you
4 know, looking at what funded it and does it, you know, make
5 sense.

6 The other one might be someone or a business or
7 even an individual who is getting wires or cash into their
8 account and they -- you don't have employment information on
9 them or they look like they are unemployed or a student.
10 That would be unusual.

11 Q. Now, did your training include guidance about what a red
12 flag is?

13 A. Yes.

14 Q. What is a red flag?

15 A. So a red flag is like an indicator or sort of a flag or
16 a warning of sorts to say this could be a pattern, something
17 maybe that you should look into.

18 Q. What were the most significant red flags that AML
19 analysts were trained to look for during the 2004 to 2008
20 period?

21 A. Well, we certainly were looking at, you know, certain
22 transactions or activities with cash, as I have spoken to
23 before, and also just even wires to foreign jurisdictions.

24 Q. And based on what you knew at the time from 2004 to
25 September 2008, are you aware of whether any of these red

1 flags were present with respect to the PCI account?

2 A. No, I don't remember.

3 MR. COLLYARD: Object to form.

4 THE COURT: I didn't hear what you said.

5 MR. COLLYARD: Objection, Your Honor. She's
6 talking about all of the accounts in the PCI account.

7 THE COURT: Overruled.

8 THE WITNESS: I don't remember.

9 BY MS. PARLOVECCHIO:

10 Q. Would high value wires going in and out of an account
11 qualify as a red flag?

12 A. Not necessarily.

13 Q. Why not?

14 A. Because you have to look at the activity for that client
15 wholistically. Maybe you would expect high value. You'd
16 have to look at everything that you have information-wise
17 and all the other transactions around the account to make
18 that decision.

19 Q. Are suspicious activity and red flag the same thing?

20 A. No.

21 Q. Why not?

22 A. So a red flag is kind of an indicator that you should
23 look to see if it's going -- if it's indicative of, you
24 know, something that is suspicious, but it's not saying that
25 it's suspicious yet.

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1 Q. Now, you testified that an AML analyst would either
2 close or escalate an alert after they completed their
3 review. What does it mean for an AML analyst to close an
4 alert?

5 A. It would mean that they would clear it and close the
6 alert.

7 Q. And would it mean that they didn't -- it didn't require
8 any review?

9 A. Oh, sorry. So they would -- what it meant to clear an
10 alert meant that they hadn't -- they have determined that
11 nothing -- the activity that they are seeing is expected,
12 isn't unusual, and they can clear the activity and close it
13 down.

14 Q. What information was available to an AML analyst --
15 withdrawn.

16 What information did an AML analyst have to record
17 in the Searchspace comments to be able to close an alert?

18 A. They would -- in the comments they would put in, you
19 know, the name of the client or the name of the customer,
20 what they alerted for, the months that they alerted for, and
21 then the activity that they had reviewed.

22 Q. To your understanding, who is the intended audience for
23 the comments that you were writing down in Searchspace?

24 A. So it would have been other AML analysts who were going
25 to maybe review or look at that as a history item down the

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1 road. It would be a manager, perhaps, looking at it. Audit
2 would come in and look at that information. So would
3 regulators.

4 Q. Now, in reviewing the Searchspace comments, would those
5 individuals also have access to other information on M&I's
6 systems?

7 A. Yes, they would.

8 Q. Did M&I's policies and procedures require AML analysts
9 to record all of the research they conducted before closing
10 an alert?

11 A. No.

12 Q. According to your understanding of M&I's policies and
13 procedures, what was an AML analyst required to record in
14 Searchspace comments before they closed the alert? Was it
15 everything?

16 A. No, it wasn't everything. You put down who they were,
17 so why they alerted and the activity, but all of that
18 information that you were researching, that you could see
19 all of those transactions, that was all available in those
20 systems and could be pulled for record to see that -- if
21 somebody else came in and wanted to look at that. So you
22 only had to summarize in your comments what you looked at.

23 Q. Now, were there instances where you escalated an alert
24 as an analyst?

25 A. Yes.

1 Q. On what occasions would you escalate an alert?

2 A. For what type of activity or?

3 Q. Just generally.

4 A. Oh, if I found the activity to be potentially
5 suspicious, I would escalate it up and we would put it to --
6 potentially putting it at a case level for review.

7 Q. And would an AML analyst on her own decide what
8 transaction activity in a customer's account was suspicious?

9 A. No. It would be reviewed with either -- a manager at a
10 manager level before it would be filed.

11 Q. So if an AML analyst together with a manager determined
12 that a transaction is suspicious, what happens next?

13 A. Once they make that decision, they would then put it
14 through the process of actually filling out the Suspicious
15 Activity Report.

16 Q. Now, when you were an AML analyst, were you ever
17 pressured to close an alert that you thought had suspicious
18 activity in it?

19 A. No.

20 Q. Did you have an understanding in general that AML
21 analysts were ever pressured to close alerts that they may
22 have thought were suspicious?

23 A. No.

24 Q. Was there ever an incentive to ignore red flags?

25 A. No.

Ramlow - Direct

1 Q. Did you ever have an understanding that anyone at M&I
2 encouraged AML analysts to ignore alerts on certain
3 customers?

4 A. No.

5 Q. Did you ever have an understanding that anyone at M&I
6 encouraged AML analysts to turn a blind eye to the activity
7 in the PCI account?

8 A. No.

9 Q. Now, during plaintiff's counsel's examination, he asked
10 you some questions about source and use of wire funds that
11 came up during your testimony. Do you recall that?

12 A. Yes.

13 Q. Can you just explain in your own words what you
14 understood "source" and "use" to mean when you were an AML
15 analyst.

16 A. Sure. So for an AML analyst, knowing what was available
17 to us, source of funds was what was credited to the account.
18 So is it a check that came in. Is it, you know. Payroll.
19 It's the credits that are coming in.

20 And the use of funds is where the money went. So
21 when they debited it from their account, what was it? Was
22 it cash? Did they write a check? Did they send a wire?
23 That would be use of funds.

24 Q. When an AML analyst looks at wire transaction activity
25 in a customer's account, what information is available about

Ramlow - Direct

1 the source of the wire?

2 A. There was no information on the source of the wire.

3 Q. Would there be any information about an originator's
4 name?

5 A. You would see the originator's name.

6 Q. Anything else?

7 A. You might see an address and the account number at their
8 bank on the wire.

9 Q. When an AML analyst looked at the wire transaction
10 activity in a customer's account during the relevant period,
11 was there information about the type of business the
12 originator would be in?

13 A. No.

14 Q. Can an AML analyst tell, from looking at the wire
15 transaction activity in a customer's account, the precise
16 reason why the originator is sending the money to the
17 customer's account?

18 A. No, they can't see that.

19 Q. Was that information necessary to an AML analyst's
20 determination whether the transaction activity being
21 reviewed was suspicious?

22 MR. COLLYARD: Objection, Your Honor.

23 THE COURT: Overruled.

24 THE WITNESS: I'm sorry. Can you ask that again?

25 BY MS. PARLOVECCHIO:

Ramlow - Direct

1 Q. Sure. Was that information necessary to an AML
2 analyst's determination about whether the transaction
3 activity being reviewed is suspicious?

4 A. It wasn't necessary to obtain it, no.

5 Q. When an AML analyst looked at the wire transaction
6 activity in a customer's account, what information is
7 available about the use of the wire?

8 A. There's no information about the use of the wire.

9 Q. If the wire went to a particular beneficiary, what type
10 of information would an AML analyst be able to see?

11 A. You would just see the beneficiary name and maybe an
12 address and their account number at the other bank on the
13 wire.

14 Q. By looking in the customer's account, would the AML
15 analyst be able to determine the precise reason why the
16 customer is sending the money to a particular beneficiary's
17 account?

18 A. No.

19 Q. Was that information necessary to an AML analyst's
20 determination whether the wire transaction activity being
21 reviewed is suspicious?

22 A. No.

23 Q. Now, during the relevant period, what could an AML
24 analyst actually see in Searchspace when looking at an alert
25 in regard to the type of business a beneficiary is in?

Ramlow - Direct

1 A. Like the account type?

2 Q. Simply the business type of the beneficiary.

3 A. The business type wasn't in Searchspace.

4 Q. Now, if the AML analyst can't obtain information about
5 the originator or the beneficiary's business type from the
6 available transaction activity information, how could the
7 analyst find that information?

8 A. So they would go look at the Customer Information
9 System.

10 Q. And what if that originator or beneficiary isn't a
11 customer of the bank?

12 A. Then they won't have that information.

13 Q. Now, based on the information about the transaction
14 activity in the customer's account, what was available to
15 the AML analyst during this relevant time period? Would the
16 AML analyst actually have details about how the customer
17 used the money going into the account?

18 A. No.

19 Q. Were AML analysts required to add up wire transactions
20 for a particular originator or beneficiary as part of their
21 general review process?

22 A. No. They had some leeway on how they could write it
23 down. It wasn't a specific way that you had to put, you
24 know, a percentage or a number in.

25 Q. And were AML analysts required in any way to record the

Ramlow - Direct

1 percentage of wire transactions from a particular originator
2 or beneficiary?

3 A. No, it wasn't required.

4 Q. When reviewing an alert related to wire activity when
5 you were an AML analyst, what was the information that you
6 considered when determining whether wire activity needed to
7 be elevated for further review?

8 A. Again, I would look at the entirety of the customer
9 relationship; and if it wasn't expected or out of their
10 norm, to make a determination if we needed to ask additional
11 questions.

12 MS. PARLOVECCHIO: Your Honor, I'm about to move
13 to another topic. I see it's after 3:00. This would be a
14 good time for a break if you --

15 THE COURT: I appreciate you alerting me to your
16 change in topic. It is a good time for a break.

17 So, Members of the Jury, we will take a 15-minute
18 break. Please be ready to return to the courtroom at 3:25.
19 And please remember the instructions that I have given you
20 and continue to follow them. Thank you.

21 All rise for the jury. And have a good break.

22 (Jury excused)

23 **IN OPEN COURT**

24 **(JURY NOT PRESENT)**

25 THE COURT: Please be prepared to return to the

Ramlow - Direct

1 courtroom and continue your testimony. Thank you.

2 We are in recess.

3 MS. PARLOVECCHIO: Thank you, Your Honor.

4 (Recess taken at 3:11 p.m.)

5 * * * * *

6 (3:31 p.m.)

7 **IN OPEN COURT**

8 **(JURY PRESENT)**

9 THE COURT: You may be seated. Good afternoon.

10 Counsel, you may proceed. Good afternoon.

11 MS. PARLOVECCHIO: Thank you, Your Honor.

12 BY MS. PARLOVECCHIO:

13 Q. Good afternoon.

14 A. Good afternoon.

15 Q. Now, before the break plaintiff's counsel asked you some
16 questions about an alert you completed on the PCI account,
17 Alert 67366. Do you recall those questions?

18 A. Yes.

19 MS. PARLOVECCHIO: And, Mr. Herzka, could we have
20 that alert, please.

21 BY MS. PARLOVECCHIO:

22 Q. Now, Ms. Ramlow, do you specifically recall completing
23 this alert?

24 A. No, I don't.

25 Q. And to be clear, when was this alert completed?

Ramlow - Direct

1 A. Can you flip it to the final comment note? So in August
2 of 2006.

3 Q. And how many alerts have you completed since August
4 2006, would you say?

5 A. Probably hundreds.

6 Q. And could you just remind the jury what this activity
7 was based on, why this alerted.

8 A. It alerted for -- thank you -- incoming and outgoing
9 wire activity.

10 Q. And, Ms. Ramlow, for your reference, too, you also have
11 a hard copy in front of you if you would like to use that
12 instead.

13 A. Sure. Okay.

14 MS. PARLOVECCHIO: I'm sorry. Can we have
15 Plaintiff's Exhibit, please, 183.

16 BY MS. PARLOVECCHIO:

17 Q. So, Ms. Ramlow, based on your typical process at the
18 time, what steps would you have taken with respect to an
19 alert for incoming and outgoing wires, such as this one?

20 A. I'm sorry. What would be the steps?

21 Q. Your typical process that you would have applied.

22 A. Oh, typical process. Sure. You would open that up,
23 look to see what it alerted for, and then begin your review
24 of looking at the activity.

25 Q. And based on your comments here, was this activity in

1 line with the normal activity for the PCI account as you
2 observed it at that time?

3 A. Yes.

4 Q. Now, plaintiff's counsel asked you about the description
5 of the PCI business in this alert. Do you recall that
6 testimony?

7 A. Yes.

8 Q. And you had noted, "Petters Company, Inc. is a
9 collection of 19 companies that make and market a variety of
10 consumer products worldwide." Do you recall that testimony?

11 A. Yes.

12 Q. Now, to be clear, back in 2006 what did you understand
13 Petters' business to be?

14 A. A collection of companies owned by Mr. Petters that were
15 involved in a number of different industries, like -- but
16 particularly I remember the companies of, you know, like a
17 Fingerhut or a Polaroid.

18 Q. Now, plaintiff's counsel also asked you questions about
19 the fact that you didn't include details about the types of
20 businesses of the originators and the beneficiaries of the
21 wires. Do you recall that testimony?

22 A. Yes.

23 Q. Why didn't you include that information about the
24 originators and the beneficiaries in this -- in these
25 comments?

Ramlow - Direct

1 A. It wasn't necessary to include information about all the
2 originators and beneficiaries of a wire in your review.

3 Q. Would you have necessarily researched all the
4 beneficiaries and the originators for wires when you're
5 conducting a review?

6 A. For all wires, no.

7 Q. Based on the information you had available to you at the
8 time, was there any reason you would have researched the
9 originators or beneficiaries that are noted in this alert?

10 A. No, not that I remember.

11 Q. And just to be clear, were you actually required to
12 record in the Searchspace comments the type of business an
13 originator or beneficiary of a wire was in at the time?

14 A. No.

15 Q. What were you required to record in the Searchspace
16 comments about originators and beneficiaries of the wires?

17 A. The names of where it was going to and where it was
18 coming from.

19 Q. And were you required to record anything beyond that?

20 A. No. That --

21 MS. PARLOVECCHIO: Objection, Your Honor, vague as
22 to which policy she's talking about for requirements.

23 THE COURT: Overruled. You may answer if you can.

24 THE WITNESS: I'm sorry. Can you ask again?

25 MS. PARLOVECCHIO: Sure.

Ramlow - Direct

1 BY MS. PARLOVECCHIO:

2 Q. According to the policies and procedures as you
3 understood at M&I, were you required to record anything
4 beyond the name of the beneficiary and the originators of
5 the wires?

6 A. No. It was up to the analysts how much information they
7 wanted to -- they thought was required.

8 Q. Now, you testified that you closed the alert -- excuse
9 me. Withdrawn.

10 If you had detected any suspicious activity on
11 this alert, would you have closed it?

12 A. No.

13 Q. Now, plaintiff's counsel also asked you whether sitting
14 here today you could read your comments in Searchspace and
15 determine how you reached your conclusion that the wire
16 activity wasn't suspicious. Do you remember that question?

17 A. I do.

18 Q. Can you just please explain to the jury how your
19 comments support your conclusion that the alert could be
20 closed.

21 A. And where -- we're looking at 67 -- I'm sorry. I just
22 want to make sure I'm on the right alert.

23 Q. The same one.

24 A. It's the same one?

25 Q. Yes.

1 THE COURT: What one is that, for the record?

2 MS. PARLOVECCHIO: It's 67 -- I want to make sure
3 I get this right. 67366, Your Honor.

4 THE COURT: Thank you.

5 THE WITNESS: So based on the comments that I
6 wrote, it was not unusual for this particular client and was
7 expected, which is why we closed it.

8 BY MS. PARLOVECCHIO:

9 Q. And what was expected?

10 A. To see these -- the wire activity that we were seeing in
11 the account.

12 Q. Does the level of detail in your notes include every
13 step that you took in your analysis?

14 A. No.

15 Q. And why is that?

16 A. Because you're not required to document everything that
17 you looked at or every system that you touched. It's a
18 summary of your investigation that you're required to put in
19 there.

20 Q. Now, I'd like to turn your attention to Plaintiff's
21 Exhibit 183 and we're going to look at Alert 69663, which I
22 believe is page 49.

23 (Pause)

24 Q. Do you have it, Ms. Ramlow?

25 A. Yes. Sorry. I have it.

Ramlow - Direct

1 Q. Now, plaintiff's counsel asked you some questions about
2 Alert 69663. Do you recall those questions?

3 A. Yes.

4 Q. And, again, to be clear, do you recall completing this
5 specific alert?

6 A. I don't remember completing this specific alert.

7 Q. Would your process for reviewing this alert be different
8 from the process that you followed for the previous alert we
9 just reviewed?

10 A. No.

11 Q. Now, based on your comments here, was this activity in
12 line with the normal activity for PCI?

13 A. It was.

14 Q. Now, I want to direct your attention to the bottom of
15 page 2 of this alert.

16 A. Okay. Yes.

17 Q. Now, plaintiff's counsel asked you a lot of questions
18 about the \$10 million wire that was sent from a law firm
19 comprised of attorneys, accountants, and brokers. Do you
20 recall those questions?

21 A. Yes. The wire that was sent to the attorney, yes.

22 Q. Why would you have recorded that level of detail right
23 here, to your recollection?

24 A. I don't remember. I must have had the information -- I
25 must have found the information and it was the largest wire,

Ramlow - Direct

1 so I thought it was pertinent to add it.

2 Q. Plaintiff's counsel also asked you questions about the
3 fact that there was a round dollar wire here. Do you recall
4 those questions?

5 A. Yes.

6 Q. In what circumstances do you find round dollar amounts
7 concerning?

8 A. If there's a pattern of round dollar. And not
9 necessarily with wires. It could be with, you know, cash.
10 It could be multiple checks. But one wire in and of itself
11 doesn't -- that's round dollar doesn't make it unusual.

12 Q. And based on the information available to you at the
13 time, would you have done anything differently in regard to
14 this alert?

15 A. No.

16 Q. And if you had detected any suspicious activity, would
17 you have closed it?

18 A. No.

19 Q. Now, I'd like to turn your attention to another alert
20 that plaintiff's counsel asked you about and we'll go to
21 Plaintiff's Exhibit 183, Alert 80215. Now plaintiff's
22 counsel asked you several questions about this as well. Do
23 you recall those questions?

24 A. I do.

25 Q. And specifically you testified about the fact that this

Ramlow - Direct

1 alert was being reviewed under the procedures for QAPOR. Do
2 you recall those questions as well?

3 A. I do.

4 Q. Can you just briefly describe for the jury what QAPOR
5 is.

6 A. QAPOR was a review that -- for particular customers that
7 frequently alerted and they were -- as an analyst, you could
8 perform a condensed review.

9 Q. Now, the term "expedited" has been used in connection
10 with QAPOR. Could you just clarify what the expedited part
11 of the QAPOR process actually is.

12 A. The expedited part was the actual comments, entry
13 comments by the analyst. So being allowed to not -- they
14 would review everything, but they could condense their
15 comments and that's what expedited it.

16 Q. So setting aside the comments, would your review process
17 for an alert be different in any way under QAPOR?

18 A. No.

19 Q. I now want to show you what's marked for identification
20 as Defendant's Exhibit 50017, and that will be tab 1 in your
21 binder.

22 A. I have it.

23 Q. Ms. Ramlow, what is this?

24 A. This is the list of customers that were on the QAPOR
25 list.

Ramlow - Direct

1 Q. And how do you recognize it?

2 A. It was part of our procedures and process.

3 Q. And was this document made and maintained in the regular
4 course of M&I's business?

5 A. Yes.

6 MS. PARLOVECCHIO: Your Honor, at this time the
7 defendant offers Defendant's Exhibit 50017.

8 MR. COLLYARD: No objection.

9 THE COURT: Exhibit 50017 is received.

10 MS. PARLOVECCHIO: Thank you, Your Honor. And
11 just publishing to the jury.

12 BY MS. PARLOVECCHIO:

13 Q. Ms. Ramlow, generally what are we looking at here?

14 A. We are looking at the list of clients who had gone
15 through the process of being confirmed to go on the QAPOR
16 list. So that was the list.

17 Q. And what is your understanding, generally, of why these
18 customers were placed on this list?

19 A. So they were alerting frequently and had been determined
20 to be not unusual. And this -- on this list you could go
21 through a -- once they were placed on this list, which
22 certain criteria was looked at in addition to the actual
23 review of the activity, including a manager who would look
24 at it, they would go on the list so that an analyst could
25 do -- follow the process for a QAPOR review.

Ramlow - Direct

1 Q. Now, I want to direct your attention to page 2 of this
2 document. And what is the customer listed at the top of
3 this page?

4 A. Petters Co., Inc.

5 Q. And can you please just read for the jury the
6 information listed in the next column under "Type of
7 business."

8 A. "Worldwide consumer products."

9 Q. And what was your understanding of the type of business
10 that PCI was involved in in the 2005 to 2008 time frame?

11 A. They were a global company involved in various product
12 sales.

13 Q. And do you see the column that says, "Date added"?

14 A. I do.

15 Q. What does that signify?

16 A. That's the date that they were added to the list so that
17 an analyst could use that list for a QAPOR review.

18 Q. Now, based on your review of alerts --

19 MS. PARLOVECCHIO: Actually, just taking a step
20 back, can we go to page 1 again, Mr. Herzka.

21 BY MS. PARLOVECCHIO:

22 Q. I just want to direct your attention to some of the
23 other customers listed on this QAPOR list.

24 And specifically drawing your attention to line 4,
25 what company is named there?

Ramlow - Direct

1 A. It's Aurora Health Care.

2 Q. And just generally, what type of company is that?

3 A. They are a healthcare provider.

4 Q. And directing your attention down to line 42.

5 A. Missoula Mac, Inc.

6 Q. And what type of company is that?

7 A. It was a McDonald's.

8 Q. Now, based on your review of alerts under the QAPOR
9 process, do customers on the QAPOR list receive more or less
10 scrutiny than other customers of the bank?

11 A. You could almost say that it was additional scrutiny
12 because not only were you reviewing them as an analyst, but
13 they were also being reviewed by the manager to get on the
14 list and that included going through certain criteria before
15 it could be approved to be put on the list, annually that
16 they had to be looked at.

17 Q. So, to be clear, once a customer made it onto the QAPOR
18 list, what did it have to do or what would have to happen
19 for it to stay on the QAPOR list?

20 A. A manager would have to review it annually to make sure
21 that the criteria was still being met for it -- to enable it
22 to stay on the list.

23 Q. And, Ms. Ramlow, you've testified a lot about the
24 reviews you did of PCI alerts. Did you ever actually
25 directly interact with PCI or Tom Petters?

Ramlow - Direct

1 A. No.

2 Q. Would M&I's policies and procedures permit an AML
3 analyst to interact directly with PCI or Tom Petters?

4 A. No.

5 Q. Why not?

6 A. Because we, as a second line AML, didn't need to be
7 interacting with clients. And it could potentially tip them
8 off as well if we were looking at them.

9 Q. And was there any policy prohibiting or counseling
10 against analysts directly interacting with customers?

11 A. Not that I remember.

12 Q. Now, when reviewing the PCI account, did you ever see
13 any checks or wires going from PCI to M&I employees?

14 A. No.

15 Q. Have you ever received any money or things of value from
16 any PCI personnel?

17 A. No, I haven't.

18 Q. Did you receive any favors from PCI personnel?

19 A. No, I did not.

20 Q. Did you get any benefit if a business banker was able to
21 sell more banking services to PCI?

22 A. No.

23 Q. Prior to September 2008, did you have any reason to
24 suspect at all that PCI was engaged in a Ponzi scheme?

25 A. No.

Ramlow - Recross

1 Q. What was your understanding of what would happen to you
2 if you looked the other way and intentionally didn't file a
3 SAR when you thought there was suspicious activity if you
4 thought there was suspicious activity in the PCI account?

5 A. Well, first, I wouldn't be doing my job and there is the
6 liability of criminal and civil penalties for not escalating
7 activity that was suspicious.

8 MS. PARLOVECCHIO: May I have a moment, Your
9 Honor?

10 THE COURT: Yes, you may.

11 (Defendant's counsel confer)

12 MS. PARLOVECCHIO: No further questions, Your
13 Honor.

14 THE COURT: Anything further for this witness?

15 MR. COLLYARD: Yes, Your Honor.

16 **RECROSS-EXAMINATION**

17 BY MR. COLLYARD:

18 Q. Ms. Ramlow, I just have a few questions for you.

19 First of all, you talked about the fact that AML
20 folks could not reach out to customers, right?

21 A. I don't think I said that.

22 Q. Didn't your counsel just ask you questions about whether
23 or not the AML Group could reach out to customers and ask
24 questions of customers?

25 A. Well, there was -- yes, you didn't want to reach out to

1 customers in case you were tipping them off.

2 Q. So what the AML Group did is they reached out to the
3 business bankers, for example, with their questions, right?

4 A. There was a process, yes, where they could do that if
5 they needed to.

6 Q. Yes. And then the business bankers reached out to the
7 customers to ask questions, right?

8 A. They could.

9 Q. That was the process?

10 A. Yes.

11 Q. QAPOR, let's talk about QAPOR. You said that Petters
12 was put on the QAPOR list; is that right?

13 A. They were on the list, yes.

14 Q. And you said that this was the list of customers that
15 was determined to not be unusual; is that what you said?

16 A. They were cleared and determined not to be unusual, yes.

17 Q. How was it that Petters Company, Inc. was determined to
18 not be unusual?

19 A. It was based on the closed to expected alerts that were
20 reviewed.

21 Q. Who made that decision?

22 A. The AML manager at the time went through the process of
23 making the determination.

24 Q. Do you know what the analysis was to determine that
25 Petters Company, Inc. -- the activity on the Petters

1 Company, Inc. account was not unusual to put it on the QAPOR
2 list?

3 A. Could you say that again?

4 Q. Yeah. Do you know specifically what was determined as
5 to how it was concluded that the activity on the Petters
6 Company, Inc. account was not unusual for it to go on the
7 QAPOR list?

8 A. It would have been based on the parameters. One of
9 those would have been that the alerts were cleared.

10 Q. You don't know specifically what was decided to put
11 Petters Company, Inc. on the QAPOR list, do you?

12 A. I didn't review it to put it on the list, so no.

13 Q. And you have no knowledge as to what went into putting
14 Petters Company, Inc. on the list, right?

15 A. I know there was a process.

16 Q. Do you know that Ms. Bernita Hile handled that process?

17 A. She did.

18 Q. And you were shown a list of companies on the QAPOR
19 list, including McDonald's, right?

20 A. Correct.

21 Q. And it had Petters Company, Inc. and it listed what
22 Petters Company, Inc. did, right?

23 A. What their business type was, yes.

24 Q. What products did Petters Company, Inc. buy or sell?

25 A. They sold products out of their Fingerhut business and

1 Polaroid. Those are the two that I remember.

2 Q. We talked before about the fact that and you testified
3 that you didn't know if Petters Company, Inc. owned Polaroid
4 or Fingerhut. Do you remember that?

5 A. No. I think I said --

6 MS. PARLOVECCHIO: Objection, mischaracterizes the
7 testimony.

8 THE COURT: Overruled. You may answer.

9 THE WITNESS: I think I said I knew that they were
10 under the group of Petters companies.

11 BY MR. COLLYARD:

12 Q. Right. And I just want to make sure I'm clear -- that I
13 understand this correctly. You're not saying that Petters
14 Company, Inc. owns Polaroid, correct?

15 A. Again, I don't know the exact ownership structure.

16 Q. And you're not saying -- it's not your testimony that
17 Petters Company, Inc. owns Fingerhut either, right?

18 A. They were a company of the Petters family.

19 Q. I understand Petters Company, Inc. was a company of the
20 Petters family, but what I'm asking you is if it's your
21 testimony that Petters Company, Inc. owned Fingerhut.

22 A. I thought they were related, yes.

23 Q. Is it -- do you have knowledge, do you have belief that
24 Petters Company, Inc. owned Fingerhut?

25 A. I don't know the ownership structure.

1 Q. And it could be, Ms. Ramlow, that some other entity of
2 Petters owns Fingerhut or owns Polaroid, correct?

3 A. Again, I don't know.

4 Q. You can't testify or speak to that?

5 A. No.

6 Q. Can you name one product that you know Petters Company,
7 Inc. bought or sold?

8 A. I can't remember.

9 Q. Now, go back, please, to Exhibit 183, Plaintiff's
10 Exhibit 183, where you were asked questions about the
11 alerts.

12 And if we go to page 43 of Exhibit 183, I'll just
13 take you to the alert. This is Alert 67366. Do you
14 remember just testifying to this alert?

15 A. Yes.

16 Q. And you were asked a question about why you closed the
17 alert. Do you remember that?

18 A. Yes.

19 Q. And I had asked you a question earlier about why you had
20 closed the alert to the expected state, right?

21 A. I think so.

22 Q. And you told me that you didn't remember or you didn't
23 know, right?

24 A. I don't remember saying that.

25 Q. Counsel just asked you why you closed it and you said it

1 was expected activity. Do you remember that?

2 A. Yes, because I was reading off the comments.

3 Q. And you said what that means is essentially -- so let me
4 ask you about that. What is meant by "expected"? Are you
5 saying that the reason why you closed this alert is because
6 you were saying that Petters essentially does it all the
7 time?

8 A. No.

9 Q. Then what exactly did you mean by "expected"?

10 A. From what I understood for the client, it was -- with
11 the activity that I reviewed, it was expected and not
12 unusual.

13 Q. What activity was expected?

14 A. The activity that I saw in the account.

15 Q. Which activity?

16 A. All of it.

17 Q. So are you saying that you're closing it because it's
18 expected that, for example, Nationwide and Enchanted are
19 wiring in nearly a billion dollars?

20 A. No.

21 Q. Okay. Then what is expected about it?

22 A. Again, I'm reading off my comments, but it's the
23 activity that I reviewed wholistically, putting it together,
24 looking at the history of the client, what they had done in
25 the past as well, because that is part of the review

1 process, that it appears explainable and expected.

2 Q. And just so I'm clear, Ms. Ramlow, you can't say what
3 the reason or purpose was for any particular wire, right?

4 A. Not that I remember.

5 Q. Okay. So then I'm trying to figure out, when you say
6 it's expected, what is expected?

7 A. That that is --

8 MS. PARLOVECCHIO: Objection, asked and answered.

9 THE COURT: Overruled. You may answer if you can.

10 THE WITNESS: It's the state that it went to.

11 BY MR. COLLYARD:

12 Q. I'm sorry?

13 A. Ask your question again. I'm sorry.

14 Q. Yes. I'm trying to figure out exactly what you mean by
15 you closed this because it was expected. What was expected?

16 A. It was explainable for the customer that I was looking
17 at based on a wholistic review of the client.

18 Q. And I'm trying to figure out what is explainable if --
19 I'm sorry. So if we just back up, we can't tell from the
20 comments what any of the wires were for, right?

21 A. I don't have all that information in front of me back
22 from 2006.

23 Q. So can you actually -- can you say, Ms. Ramlow, why
24 exactly it was expected that this activity -- that the
25 activity was expected for the Petters Company, Inc.

1 business?

2 A. From what we knew about the client and the activity that
3 we could see, it was not unusual and that's why I closed it.

4 Q. And what exactly did you know about the client that led
5 it to be expected?

6 A. I think the activity that I looked at and who they were
7 and all the information that was available to me to make the
8 conclusion in the comments.

9 Q. And are you saying something different than, oh, there's
10 been billions and billions of dollars wired in from these
11 entities in the past?

12 A. No, that's not what I'm saying.

13 Q. You say, "expected from a business." Do you see that at
14 the very -- on page 45?

15 A. Yes.

16 Q. What business?

17 A. Their business.

18 Q. When you say, "from a business," is that referring to
19 Petters Company, Inc. or is that referring to a business
20 generally?

21 A. From the client, who is a business. They weren't an
22 individual, so I clearly said they were a business.

23 Q. And other than saying based on looking at all the
24 transaction activity wholistically, you can't specifically
25 say why, why this activity was expected?

Ramlow - Recross

1 A. Again, from my comments, looked at the activity
2 wholistically and it was expected for the client and that's
3 why I closed it.

4 Q. Can you explain any more specifically than that?

5 A. No.

6 Q. Let's go to the other alert you just testified to. It's
7 Alert 69663. It's Exhibit 183, page 49. And this one I
8 believe you answered your counsel's question and you said
9 the reason -- well, first, let's back up. You don't
10 remember reviewing this alert, do you?

11 A. No.

12 Q. You don't remember anything you did to adjudicate the
13 alert, right?

14 A. I don't remember sitting there and working the alert,
15 but I remember high level what the process was for an
16 analyst.

17 Q. Understood that you remember your process, but you don't
18 remember anything about what you did with respect to this
19 alert?

20 A. On that particular day? No.

21 Q. And you don't recall this particular alert from back in
22 2006, right?

23 A. I don't remember it, no.

24 Q. You were asked why you closed and you said it was in
25 line with normal activity. Do you remember saying that?

1 A. Yes.

2 Q. And, again, I just want to know what that means. Are
3 you referring to the reason why you believe it was in line
4 with normal activity for Petters Company, Inc. because there
5 were billions of dollars coming in and out of the account?

6 A. It wasn't because of the billions of dollars. It was
7 looking at the wholistic relationship in all of their
8 activity to make the comment to close it.

9 Q. But, again, for this alert, we don't know why any of the
10 wires were coming in or going out of the account, right?

11 A. Not from the comments, but we weren't required to
12 document them.

13 Q. So other than the -- if we don't know what the wires
14 were for and it's not about the billions of dollars coming
15 in, then what is it that makes it in line with the normal
16 activity for Petters Company, Inc.?

17 A. So the comments that I have in -- there again, I looked
18 at them. It was in line with what we had seen and what we
19 knew about the client, and there was no other unusual
20 activity.

21 Q. And when you say what we had seen and what we had known
22 about the client, what specifically are you referring to?

23 A. Their activity.

24 Q. "Their activity" meaning the billions of dollars?

25 A. All of their activity.

1 Q. Can you name any specific activity that you're referring
2 to that led to your conclusion that it was in line with
3 normal activity?

4 A. No.

5 Q. You also talked about the \$10 million wire to the
6 yachting industry, right?

7 A. Yes.

8 Q. And you were asked questions about whether or not it was
9 round, right?

10 A. Yes.

11 Q. And you said something along the lines of you would look
12 at patterns of round dollars; is that right?

13 A. Yes, you can.

14 Q. Okay. So, for example, if Enchanted or Nationwide had
15 wired in patterns of round dollar wires -- or, I'm sorry, if
16 Enchanted, for example, had wired in multiple times,
17 multiple times large wires that were round, would that be
18 considered a pattern?

19 A. It depends on the frequency of it.

20 Q. What frequency makes it a pattern?

21 A. It depends. I would have to be looking at it to explain
22 it.

23 Q. You don't have any particular gauge on it?

24 A. No.

25 Q. Now, you testified that -- I don't know if I heard this

1 correctly, but you said something along the lines of when
2 you were closing alerts and putting in your comments, that
3 it was up to the analysts what to explain in the comments.
4 Is that what you testified to?

5 A. Yes. Once they are following the procedures and
6 guidelines, how they -- how they wanted to write about what
7 they were seeing, they had some ability to decide how to
8 explain that.

9 Q. Well, the analyst couldn't just make up -- decide what
10 they put in the comments, right?

11 A. No.

12 Q. They had to follow the procedures?

13 A. Correct.

14 Q. So if we go to Plaintiff's Exhibit 398 -- I want to show
15 you Plaintiff's Exhibit 398.

16 A. Sorry. What number, again?

17 Q. You're going to have to go to my booklet. Do you have
18 an Exhibit 398 in there, Ms. Ramlow?

19 A. Yep.

20 Q. Okay. Can you please take a look at Exhibit 398.

21 A. I see it.

22 Q. These are additional guidelines for anti-money
23 laundering analysts to use while they are investigating
24 alerts; is that right?

25 A. It appears so.

1 Q. And you're familiar with this document, correct?

2 A. I'm familiar with various levels of this document that
3 evolved.

4 Q. Okay. If we turn to page 5 of Exhibit 398 --

5 A. I see it.

6 Q. -- look to the heading there where it reads, "Comments
7 in Searchspace for 'closed to expected or explainable
8 activity.'" Do you see that?

9 A. Yes.

10 Q. And this provides a list of things that the anti-money
11 laundering analysts were supposed to address when they were
12 closing an alert, right?

13 A. Correct.

14 Q. So, for example, if you go down -- halfway down through
15 the page where it says, "Describe analysis completed," and
16 it says, for example --

17 A. Yes. Yep, I see it.

18 Q. Thank you. It says, "discussion with account officer,
19 information found on the internet, information found through
20 looking at checks."

21 A. Yep.

22 Q. Do you see that?

23 A. Yeah.

24 Q. And that's the type of information that you would
25 describe in the comments section, just as an example, right?

1 A. Correct.

2 Q. Now, this wasn't an exhaustive list, that analysts could
3 choose to go on and explain more; is that right?

4 A. They could.

5 Q. And then at the last -- at the bottom, the last item
6 reads, the very last sentence, it reads, "Make sure that a
7 conclusion is reached and supported in your comments."

8 Right?

9 A. That's correct.

10 Q. And that was important to do, right?

11 A. Yes.

12 Q. And then if we go to the next page, page 6, towards the
13 top there where it reads, "The focus for close to expected
14 alerts," it says, "The focus for closed to expected alerts
15 will be on explaining the reason for the alert." Do you see
16 that?

17 A. Yes.

18 Q. And "Analysts will be required to look at everything,
19 but only document what alerted AND the source or use of
20 funds." Do you see that?

21 A. I do.

22 Q. And then it says that, "If other unusual activity is
23 identified, that should be commented on as well." Right?

24 A. Correct.

25 Q. Those were some of the things that were supposed to be

1 in the comments section, right?

2 A. Yes.

3 Q. And, in fact, if we move down just a little bit, where
4 it says, "Ensure," it reads, "Ensure that you understand and
5 explain what is going on in the account." Do you see that?

6 A. Yes.

7 Q. And you understood that analysts were supposed to
8 understand and then explain what was going on in the
9 account, right?

10 A. Yes. To the best of their ability, yes.

11 Q. And then it gives us an example for -- a wire example,
12 right?

13 A. Yes.

14 Q. And that's for an incoming wire, right?

15 A. Yes.

16 Q. And it reads, "Documentation would be needed for the
17 source of the incoming wires AND what the funds appeared to
18 be used for." Do you see that?

19 A. Correct.

20 Q. That's not just the names, right?

21 A. That's what would be available to the analyst to see to
22 document.

23 Q. And when you document the incoming wires, you're not
24 only documenting who is wiring the money in, but you're also
25 documenting what the funds appeared to be used for, correct?

1 A. Where they were sent, yes.

2 Q. And if you have information about why those wires are
3 coming in or what they are being used for, you document that
4 in the comments section, right?

5 A. If that was available to the analyst, but it wasn't.

6 Q. Let's go to the next page, page 7, under "Reminders,"
7 part 3. And this is a checklist when you're closing the
8 alert, right?

9 A. I wouldn't call it a checklist.

10 Q. You would call these reminders?

11 A. Sure.

12 Q. Okay. It says, "Remember to ask yourself the following
13 questions when closing an alert to expected activity." And
14 then the third one says, "Do the comments provided convince
15 the reader that the alert is not suspicious?" Do you see
16 that?

17 A. I do.

18 Q. And do you agree that the analyst is supposed to provide
19 enough information in the comments section when they closed
20 the alert to convince the reader that the alert is not
21 suspicious, right?

22 A. Yes, they were supposed to give enough information so
23 that the reader understood how they came to their
24 conclusion.

25 Q. And the reader of these comments are anti-money

1 laundering analysts, correct?

2 A. Yes.

3 Q. Managers, correct?

4 A. Yes.

5 Q. Auditors?

6 A. Yes.

7 Q. Regulators?

8 A. Yes.

9 Q. And that level of detail in the comments was supposed to
10 convince them that the alert was actually not suspicious,
11 right?

12 A. Yes, but they would have additional information and
13 resources available to them that the analysts could see if
14 they required additional detail to understand that reason as
15 well.

16 Q. This says the comments provided must convince the reader
17 that the alert is not suspicious, right?

18 A. Yes.

19 MR. COLLYARD: No further questions, Your Honor.

20 Thank you, Ms. Ramlow.

21 THE COURT: Anything further for this witness?

22 MS. PARLOVECCHIO: Your Honor, no questions for
23 this witness.

24 THE COURT: May this witness be excused?

25 MS. PARLOVECCHIO: Yes.

1 THE COURT: You are excused.

2 THE WITNESS: Thanks.

3 MR. COLLYARD: Your Honor, plaintiff will call its
4 next witness adverse, Patricia Currie-Smotherman.

5 THE COURT: Thank you.

6 (Pause)

7 THE COURT: Before you're seated, please state
8 your full name and spell your last name.

9 THE WITNESS: Patricia Currie-Smotherman,
10 C-u-r-r-i-e, hyphen, S-m-o-t-h-e-r-m-a-n.

11 (Witness sworn)

12 THE COURT: Thank you. Please be seated.

13 Counsel, you may proceed when you are ready.

14 MR. COLLYARD: Thank you, Your Honor.

15 **(Patricia Currie-Smotherman)**

16 **CROSS-EXAMINATION**

17 BY MR. COLLYARD:

18 Q. Good afternoon, Ms. Currie-Smotherman.

19 A. Good afternoon.

20 Q. You and I have met before, right?

21 A. Yes.

22 Q. That was in Milwaukee when I took your deposition; is
23 that right?

24 A. Yes.

25 Q. I want to start out by asking you,

1 Ms. Currie-Smotherman: Are you still employed at BMO Harris
2 Bank?

3 A. Yes.

4 Q. And what is your current role?

5 A. An AML investigator.

6 Q. And from two thousand -- let's go back to the 2005 to
7 2008 time period. You were an anti-money laundering analyst
8 and an anti-money laundering investigator; is that right?

9 A. An analyst, an AML analyst, yes.

10 Q. You were an AML analyst?

11 A. Yes.

12 Q. Were you --

13 THE COURT: Ms. Currie-Smotherman, I'm going to
14 ask you to pull the base of the microphone closer to you.
15 I'm having trouble hearing you.

16 THE WITNESS: Is that better?

17 THE COURT: It is better.

18 BY MR. COLLYARD:

19 Q. I am sorry. Were you an anti-money laundering analyst
20 and an anti-money laundering investigator during that time
21 period?

22 A. My job title was AML analyst.

23 Q. Okay. Do you remember, Ms. Currie-Smotherman, the
24 Petters Company, Inc. account?

25 A. Yes.

1 Q. Do you remember that the Anti-Money Laundering Group
2 from 2005 up through 2008 had investigated and closed alerts
3 on the Petters Company, Inc. account?

4 A. Yes.

5 Q. And do you recall that you yourself had reviewed and
6 investigated alerts on the Petters Company, Inc. account?

7 A. Yes.

8 Q. And do you recall, Ms. Currie-Smotherman, that you
9 reviewed and closed four AML alerts on the account?

10 A. No, I do not recall how many.

11 Q. Do you recall that the alerts that you closed for --
12 were for incoming and outgoing wires?

13 A. Yes.

14 Q. And do you recall that the value of the incoming and
15 outgoing wires was about \$5.7 billion?

16 A. No, I do not recall the amount.

17 Q. In your job as an anti-money laundering analyst,
18 Ms. Currie-Smotherman, had you -- you had -- you have looked
19 at or investigated incoming wires, right?

20 A. Yes.

21 Q. And as part of that, you have done research, for
22 example, on entities wiring money into the account, right?

23 A. Could you rephrase that, please?

24 Q. Yes. In your experience as an anti-money laundering
25 analyst in the Anti-Money Laundering Group from 2005 through

1 2008, you have researched or analyzed entities wiring money
2 into an account on alerts that you were adjudicating?

3 A. Yes, but that was not a requirement.

4 Q. I understand, but you have done it, correct?

5 A. Yes.

6 Q. And in order to research entities wiring money into the
7 account, one of the things that you would do is you could go
8 on the internet and look for those, look for information
9 about those entities; is that right?

10 A. Yes, I could, but that was not a requirement.

11 Q. And I'm not asking you about requirements right now.
12 I'm just asking you if that is something that you could do.

13 A. Yes.

14 Q. And that is something that you actually have done in
15 your experience, right?

16 A. Yes.

17 Q. Now, what about using databases, like the Secretary of
18 State's website? Have you gone onto the Secretary of
19 State's websites, for example, to look up information about
20 entities wiring money into an account?

21 A. Not during that time frame, no.

22 Q. Do you know for sure that you have never done that?

23 A. During that time frame? I don't recall doing that.

24 Q. Something you certainly could have done?

25 A. Could have, yes.

1 Q. What other databases did you have available for you to
2 research entities wiring money into the account?

3 A. What other databases?

4 Q. Yes.

5 A. The internet, any search engines.

6 Q. What about LexisNexis, for example?

7 A. Yes, I believe we used LexisNexis during that time
8 frame.

9 Q. And certainly LexisNexis -- is that a database where you
10 could go in and plug in information about a company and
11 learn information about a company?

12 A. Yes.

13 Q. What about Hoovers? Do you know what Hoovers is?

14 A. Yes.

15 Q. What is Hoovers?

16 A. I believe it's a business database.

17 Q. Is that a database that you had access to, where you
18 could plug in information on a company wiring money into an
19 account to find out more information about that company?

20 A. Not that I recall. I mean, we were doing a Google
21 search. Then if something came up within the -- with the
22 Hoovers, then yes. But, no, it wasn't something that we
23 were required to use or that we used on a regular basis.

24 Q. And, again, I'm not talking about whether you're
25 required to do it. I'm asking: Is that a database that you

1 had access to that you could use to research an entity
2 wiring money into an account?

3 A. Not that I recall.

4 Q. Did you use the Hoovers database?

5 A. No.

6 Q. That's not something you used?

7 A. No.

8 Q. Did you understand, Ms. Currie-Smotherman, that as part
9 of the process, if you were gathering information on an
10 entity wiring money into an account, that one of the things
11 you could do is ask the business banker certain information
12 about -- if they knew information about that entity?

13 A. Yes.

14 Q. And that's something that you had done in the past as
15 well, right?

16 A. Yes.

17 Q. And do you understand that, as part of that process,
18 business bankers then could ask the customer questions and
19 then get back to you?

20 A. Yes, that was a process.

21 Q. Let's go to Exhibit -- Plaintiff's Exhibit 183. So
22 you've got a binder in front of you and you can go to that.
23 We're also going to show it to you on the screen by you. So
24 you'll have your choice.

25 A. Okay.

1 Q. And if you take a look at Exhibit 183, I'll just bring
2 you to page 6, which is Alert 53247. Are you there?

3 A. Yes.

4 Q. Are you familiar with Exhibit 183?

5 A. Yes.

6 Q. And these are -- is this -- are these the audit trails
7 or the comments from -- in Searchspace that were generated
8 on alerts that were closed on the Petters Company, Inc.
9 account?

10 A. Yes.

11 Q. And this alert here, Alert 53247, if we go to the top,
12 it was -- the alerted month is March of 2005. Do you see
13 that?

14 A. Yes.

15 Q. Now, do you understand, Ms. Currie-Smotherman, that this
16 was the first substantive alert that was closed on the
17 Petters Company, Inc. account?

18 A. No.

19 Q. You don't have that understanding?

20 A. Well, I do -- I know that it was now, but yes.

21 Q. Okay.

22 A. This was the first alert that was closed, yes.

23 Q. Okay. And if we look down below, we're going to see
24 some entries in here and it lists your name, right?

25 A. Yes.

1 Q. And do you recall that you closed this alert?

2 A. Yes.

3 Q. And if we just take a look at your comments here, the
4 second block down -- let me back up. Do you -- was this
5 alert for both incoming and outgoing wires for volume and
6 value?

7 A. Yes.

8 Q. And if we go to the second block down, it says, "Wire
9 activity does not appear suspicious." Do you see that?

10 A. Yes.

11 Q. Do you remember why you concluded that?

12 A. It would have been based on my research.

13 Q. Do you remember, as you're sitting here today, anything
14 specifically about why or how you concluded the activity did
15 not appear suspicious?

16 A. Could you rephrase your question, please?

17 Q. Sure. I'm just trying to -- I'm just trying to figure
18 out, as you're sitting here today, if you remember -- let me
19 back up. Do you remember adjudicating this alert?

20 A. I remember closing the alert, saying the activity was
21 not suspicious, based on having reviewed it again, yes.

22 Q. Do you remember specifically what you did to investigate
23 or analyze this alert?

24 A. Specific details, no, but what our standard procedure
25 was.

1 Q. So you don't remember actually reviewing or
2 investigating this particular alert?

3 A. No, I do not.

4 Q. If we just go back to that comment there where it reads,
5 "Wire activity does not appear suspicious," can you read
6 your comment and determine why or how it is that you
7 concluded that the activity does not appear suspicious?

8 A. I didn't -- could you repeat your question, please?

9 Q. Sure. Can you read your comment there where it says,
10 "Wire activity does not appear suspicious" and know from
11 reading that how or why you concluded that the wire activity
12 did not appear suspicious?

13 A. I know that in my research I would have looked at who
14 was sending -- the originators of the wires, the beneficiary
15 of the wires, and if that was -- if that seemed logical for
16 that customers and what he would normally receive for
17 incoming and outgoing wires. But the specific details of
18 exactly, no.

19 Q. Okay. Do you remember -- let's back up. You remember
20 the Petters Company, Inc. account, right?

21 A. I remember working the alerts on the Petters Company,
22 yes.

23 Q. Do you know that -- do you remember that the Petters
24 Company, Inc. account was a checking account?

25 A. Yes.

1 Q. Do you remember that that was in the business banking
2 group or the small business banking group?

3 A. No.

4 Q. Do you recall what Petters Company, Inc. business did?

5 A. I do not.

6 Q. You don't know of any products or -- that it was buying
7 or selling, for example?

8 A. I don't recall.

9 Q. If I told you that Petters Company, Inc. was in the
10 business of buying and reselling consumer electronics or
11 TVs, would that help refresh your recollection?

12 MS. PARLOVECCHIO: Objection, improper refreshing
13 of recollection.

14 THE COURT: Sustained.

15 BY MR. COLLYARD:

16 Q. If I told you that Petters Company, Inc. was in the
17 business of buying or selling consumer electronics,
18 including TV, does that refresh your recollection?

19 MS. PARLOVECCHIO: Objection. Same objection,
20 Your Honor.

21 THE COURT: Sustained.

22 THE WITNESS: It does not.

23 BY MR. COLLYARD:

24 Q. It does not. Thank you.

25 Now, if we go to the -- if we go to page 7 and if

1 we look in the middle of the page, there's an entry there
2 that says, "Activity of the type expected for this
3 customer." Do you see that?

4 A. Yes.

5 Q. And it's got a name next to it, "eberman." Do you see
6 that?

7 A. Yes.

8 Q. Is that Elliot Berman?

9 A. Yes.

10 Q. And who was Elliot Berman?

11 A. He was our acting interim manager at the time.

12 Q. Was Elliot Berman a lawyer at a law firm?

13 A. Yes.

14 Q. And Elliot Berman was a lawyer who had advised M&I Bank
15 on legal matters; is that right?

16 A. Yes.

17 Q. And then Mr. Berman stepped in to act as an interim
18 manager for a certain period of time in the AML Group; is
19 that right?

20 A. Yes.

21 Q. And Mr. Berman writes, "Activity of the type expected
22 for this customer." Do you know why -- you don't know why
23 Mr. Berman concluded that, do you?

24 A. Except for that in our normal process he would have more
25 than likely did the same basic research that I did to come

1 to that conclusion.

2 Q. But you can't read those comments and explain why
3 exactly Mr. Berman concluded that, right?

4 A. No.

5 Q. And you don't know from reading these comments what
6 Mr. Berman based that on when he made that conclusion,
7 right?

8 A. He was basing it on my comments and if it aligned with
9 what he had actually found. I moved it to manager review
10 for him to take a look to see if he agreed with my
11 conclusion.

12 Q. But you don't know specifically what Mr. Berman did to
13 conclude that the activity is of the type expected for the
14 customer or why he believed that?

15 A. Your question was somewhat two parts. Could you re --

16 Q. Sure. I will just focus on the last part. We can't
17 read Mr. Berman's comments here and understand why he
18 actually concluded that, right?

19 A. Not from the comment, no.

20 Q. And then if we just go down below where you say,
21 "Activity of the type expected for this customer." Do you
22 see that?

23 A. Yes.

24 Q. We can't read your comment right now,
25 Ms. Currie-Smotherman, and understand why you concluded

1 that, right?

2 A. Based on my comments above.

3 Q. So all we know is what is written in these comments
4 right here, right?

5 A. Yes.

6 Q. We can't glean from this language in particular why you
7 believed that the activity was of the type expected for the
8 customer, correct?

9 A. From the comments, no.

10 Q. And as you're sitting here today, can you say why
11 exactly the activity was expected for the customer?

12 A. Because, based on my research, I would have looked at
13 statements to see if this was normal for the customer to
14 receive incoming wires from these particular customers or
15 outgoing wires to those particular customers. So, based on
16 that, that would have been activity that the customer
17 normally would conduct.

18 Q. And is the basis for you saying that that, oh, they had
19 wires from similar entities coming in and wires going to
20 similar entities?

21 A. I'm sorry. Could you repeat your question or rephrase
22 it?

23 Q. Sure. I'm trying to figure out what you're trying to
24 say about expected and I'm trying to understand if your
25 basis for saying it's expected is that you had seen similar

1 wires from similar companies coming into the account and
2 similar wires going to similar companies going out of the
3 account.

4 A. Yes.

5 Q. And is that really -- that's it? Is that's the
6 analysis?

7 A. Could you rephrase your question, please?

8 Q. Sure. Is that -- can you think of anything more of what
9 the analysis was other than that?

10 A. The wires didn't appear suspicious because that was the
11 customer's normal pattern of activity, to send outgoing
12 wires and receive incoming wires from their potential
13 customers, so that's what my research was stating.

14 Q. Ms. Currie-Smotherman, do you understand that in the
15 concept of identifying suspicious activity, you can't use as
16 a basis for saying something is not suspicious that the
17 customer has done that same thing in the past?

18 MS. PARLOVECCHIO: Objection, misstates evidence
19 in the record.

20 THE COURT: Overruled. You may answer the
21 question if you can.

22 THE WITNESS: Could you repeat the question?

23 THE COURT: And I'm going to ask you -- I'm having
24 trouble hearing you. So would you just move the base so I
25 can hear you better?

1 THE WITNESS: Could you repeat your question,
2 please?

3 THE COURT: Thank you.

4 MR. COLLYARD: That's much louder. I can hear you
5 better, too.

6 BY MR. COLLYARD:

7 Q. Do you understand that one of the concepts in
8 identifying and reporting suspicious activity that was
9 taught to bank personnel was you can't ignore suspicious
10 activity or you can't base findings on suspicious activity
11 off of the notion of, oh, the customer does that all the
12 time?

13 A. Yes. And that's not what my conclusion was. The
14 customer does that all the time and that's the reason it
15 wasn't suspicious, that was not my conclusion.

16 Q. Did you base your analysis on the fact that the incoming
17 wires had come in from similar entities?

18 A. Could you repeat it, please?

19 Q. Did you base your analysis on the fact that wires came
20 in from similar entities who had previously wired money to
21 the account?

22 A. I based it on the fact that that was the customer's
23 normal pattern of activity and from the customers that he
24 normally received incoming and outgoing wires to, not that
25 he does it all the time.

1 Q. Do you know, Ms. Currie-Smotherman, on this
2 particular -- where you mentioned Nationwide and Enchanted,
3 do you see that?

4 A. Yes.

5 Q. Do you know who Nationwide or Enchanted is?

6 A. No, not at this moment, I do not know who they are.

7 Q. Did you look into who Nationwide or Enchanted was back
8 when you reviewed this alert?

9 A. I don't recall.

10 Q. Would you have looked to see what type of information
11 you could find out about Nationwide and Enchanted in making
12 your determination whether or not their wires coming into
13 the account were expected?

14 A. It's possible we would do a sampling of originators and
15 beneficiaries.

16 Q. Let's go to a different alert. This is on page 67. And
17 if we take a look at this alert, Ms. Currie-Smotherman, it's
18 Alert 83853. Do you see that?

19 A. Yes.

20 Q. And this is for the alerted month of February of 2007;
21 is that right?

22 A. Yes.

23 Q. And this was an alert that you closed; is that correct?

24 A. Yes.

25 Q. And if you go to the next page, on page 68 you talk

1 about the incoming and outgoing wires. Do you see that?

2 A. Yes.

3 Q. And if I can just take those blocks and kind of bring
4 them up, highlight the incoming wires, we see that the
5 incoming wires that were received were for a total of
6 \$1.750 billion, right?

7 A. Yes.

8 Q. Now, if we go to the outgoing wires and take a look at
9 them, the outgoing wires were for \$1.748 billion, right?

10 A. Yes.

11 Q. And if I put the two blocks together so we can see the
12 incoming and outgoing wires, that's a similar amount of
13 money going in and out of the account, right?

14 A. Yes.

15 Q. Now, on the outgoing wires you give a range, right?

16 A. Yes.

17 Q. And you have the largest wire for \$10 million even,
18 correct?

19 A. Yes.

20 Q. Do you know what that wire was for?

21 A. No.

22 Q. Do you know if that wire was to an individual?

23 A. Sitting here today, no, I have no way of knowing that
24 from looking at that.

25 Q. If you would have saw a \$10 million wire like that,

1 would you have looked at it?

2 A. It's possible.

3 Q. And if it was to an individual, what would you have
4 done?

5 A. I can't answer what I would have done. Again, we review
6 the wires and we review a sampling of the wires.

7 Q. And you told me that you knew what your standard
8 procedure was for reviewing and investigating the wires,
9 right?

10 A. Yes.

11 Q. Did you have a standard or procedure for if there were
12 wires, for example, in the range of \$10 million to
13 individuals what you would actually do to investigate that
14 if it was on a business account?

15 A. Well, because it's a business account didn't mean it
16 couldn't go to an individual.

17 Q. Did you have a procedure that you would follow to look
18 into large wires, like \$10 million, that went to officers of
19 a company, for example?

20 A. No.

21 Q. Would that be something that you didn't see very often?

22 A. Oh, I don't recall if it would -- if it was something
23 that I'd seen often or not. I don't think so.

24 THE COURT: Did you say, "I don't think so"?

25 THE WITNESS: I don't think -- no, I don't think

1 it was something that we didn't have a procedure to look
2 into.

3 BY MR. COLLYARD:

4 Q. What about -- so we see here that you're reviewing
5 alerts that are nearly \$2 billion in and nearly \$2 billion
6 out, right?

7 A. Yes.

8 Q. Was that something in 2005 to 2008 that you came across
9 often?

10 A. I don't recall.

11 Q. Can you think of another entity that had billions of
12 dollars in wires that were being alerted that you had to
13 review and investigate?

14 A. I don't recall.

15 Q. Can you think of any customer that you reviewed or
16 investigated during that time period that had billions of
17 dollars of wires going in and out?

18 A. I don't recall.

19 Q. Do you remember if, when you were in the Anti-Money
20 Laundering Group, if you ever talked to the other analysts
21 about the Petters Company, Inc. alerts?

22 A. I'm sorry. Could you repeat your question, please?

23 Q. Sure. Do you remember if you ever talked with the other
24 analysts about the Petters Company, Inc. alerts?

25 A. No, I don't recall.

1 Q. Do you remember if the anti-money laundering analysts
2 ever sat around and talked about how there had been billions
3 and billions of dollars and these would have been the
4 largest wire transaction activities that they would have
5 seen while they were doing their job?

6 MS. PARLOVECCHIO: Objection, calls for hearsay.

7 THE COURT: Overruled. You may answer the
8 question.

9 THE WITNESS: Could you repeat the question,
10 please?

11 BY MR. COLLYARD:

12 Q. I'm trying to figure out if -- it was a small group,
13 right? It was five or six money laundering analysts; is
14 that right?

15 A. At one point, yes, there were -- it was a smaller group.

16 Q. From 2005 to 2007, for example, it was about five or six
17 people, right?

18 A. Yeah, about that many, possibly.

19 Q. And I'm just trying to figure out if you would sit
20 around and say, oh, my gosh, the Petters Company, Inc.
21 account has billions of dollars going in and out of it, if
22 that was a topic that was ever raised?

23 A. I don't recall.

24 Q. Do you agree with me that it would be uncommon during
25 that time period to see any client who had billions of

1 dollars going in and out of an account on wires for value on
2 incoming and outgoing wires?

3 A. Could you repeat your question, please?

4 Q. Do you agree with me that it was unusual, it was unique
5 for an account to have billions of dollars going in and out
6 of it that was consistently alerting for incoming and
7 outgoing wires?

8 A. No, I don't agree with you.

9 Q. And why don't you agree with me?

10 A. Because I can't recall every account or customer that I
11 looked at or what the activity was, so I can't agree with
12 something that I don't recall.

13 Q. But can -- but you're not aware of any other client or
14 customer that had billions of dollars going in and out of
15 it?

16 A. I don't recall. I don't know if there were other
17 customers that had that amount in and out of the account.

18 Q. In your experience as a -- in the Anti-Money Laundering
19 Group, do you see billions of dollars going in and out of
20 the account for similar amounts of money?

21 A. I could -- I might see that amount. I don't know. I
22 don't recall the amounts. I mean, we work hundreds and
23 hundreds of different alerts. So for me to sit here and say
24 I recall the exact dollar amounts, I don't recall that.

25 Q. But can you -- in your experience as an anti-money

1 laundering analyst, have you actually seen other accounts
2 where billions of dollars have gone in and out for similar
3 amounts and that account was being alerted for incoming and
4 outgoing wires?

5 MS. PARLOVECCHIO: Objection, vague as to time
6 frame.

7 THE COURT: Sustained. You may establish the time
8 frame if you can.

9 BY MR. COLLYARD:

10 Q. I'll say from 2005 up until today, is it your experience
11 as an anti-money laundering analyst that you have seen
12 billions of dollars go in and out of an account for similar
13 amounts of money on alerts for incoming and outgoing wires?

14 A. And, again, I don't recall.

15 Q. If we stay -- we are still on Alert 83853 and if we look
16 at -- for the incoming wires you list Nationwide, right?

17 A. Yes.

18 Q. But you don't list Enchanted, correct?

19 A. No.

20 Q. Do you have any idea how much money Enchanted had wired
21 into the account during this time period?

22 A. No.

23 Q. If I told you that it was \$706 million, would that help
24 refresh your recollection?

25 MS. PARLOVECCHIO: Objection, improper refreshing

1 recollection.

2 THE COURT: Sustained.

3 BY MR. COLLYARD:

4 Q. Can you say what the business purpose was for any wire
5 from Nationwide?

6 A. I didn't hear your question.

7 Q. Yes. For this alert can you say what the legitimate
8 business purpose was for any wire from Nationwide?

9 A. No.

10 Q. And from your comments here, can you explain what the
11 business purpose was for any of the wires that are listed?

12 A. That was not a requirement. I was looking at the
13 customer was receiving incoming wires from their potential
14 clients, and it was not a requirement for me to know what
15 the business purpose was, if they were paying invoices or
16 making purchases. So it was not a requirement to know.

17 Q. Do you know how, for example, it made sense that
18 Nationwide International Resources was wiring money into the
19 Petters Company, Inc. account?

20 A. Could you repeat your question?

21 Q. Sure. Do you know how it made sense, for the Petters
22 Company, Inc. business, that Nationwide International
23 Resources was wiring money into the Petters Company, Inc.
24 account?

25 A. That they would have been a client of that customer.

1 Q. And do you know that for a fact?

2 A. The fact that they were sending wires is what I based
3 that on, that it was a client of PCI.

4 Q. Other than -- did you research Nationwide and Enchanted?

5 A. I don't recall.

6 Q. Could you have researched Nationwide and Enchanted?

7 A. Yes.

8 Q. You just don't remember if you actually did it or not?

9 A. Correct.

10 Q. Did you make a determination as to whether or not the
11 wires coming in from Nationwide and Enchanted made sense for
12 the Petters Company, Inc. business?

13 A. Made sense as in other than it was their client sending
14 them money? That was what I was -- that was my research,
15 the fact that that was their client sending wires to them or
16 vice versa.

17 Q. What do you mean by "it was their client"?

18 A. So, for instance, if I were a business and someone was
19 paying me, sending money, then that's what -- it would
20 appear that they were paying invoices or sending money to
21 PCI. That was their client.

22 Q. Were you making that as an assumption? Was that an
23 assumption that you made or did you actually have
24 information that told you that that was the case?

25 A. Based on the fact that they were paying them, then that

1 would appear that it was their customer.

2 Q. And if -- did you understand that Petters Company, Inc.
3 was in the business of buying TVs from vendors like
4 Nationwide?

5 A. As I said, I don't recall what the business model was.

6 Q. And if Petters Company, Inc. was supposed to be buying
7 TVs from Nationwide, would it make sense that Nationwide was
8 wiring in money into the Petters Company, Inc. account?

9 A. It could.

10 Q. So I'm just trying to figure out, Ms. Currie-Smotherman,
11 other than assuming, other than making assumptions -- well,
12 let me back up. Did you base your determination on
13 assumptions you made about Nationwide?

14 MS. PARLOVECCHIO: Objection, asked and answered.

15 THE COURT: Overruled. You may answer.

16 THE WITNESS: I based my -- I based it on the
17 research that I did on the customer. And, again, I don't
18 recall the details of the research, but my research is what
19 I used to come to the conclusion that the activity wasn't
20 suspicious or that that was their customer sending them
21 money in and out of the account.

22 BY MR. COLLYARD:

23 Q. So you -- your testimony is that you would have done
24 some research on Nationwide to figure that out?

25 MS. PARLOVECCHIO: Objection, misstates the

1 testimony.

2 THE COURT: Overruled.

3 THE WITNESS: Your question, again?

4 BY MR. COLLYARD:

5 Q. Sure. Your testimony is that you would have done some
6 research on Nationwide in order to figure that out?

7 A. I don't recall that I would have done specific research
8 on that customer because, again, we did a sampling of
9 customer -- of clients in and out of the account,
10 originators and beneficiaries, so I don't know which ones
11 that I would have done research on.

12 Q. Would it have been part of your practice if the majority
13 or most of the money was coming in from a couple of entities
14 to at least focus in on those entities?

15 A. No, that was not a requirement, to focus on who the
16 majority was from or the --

17 Q. So it was just -- is it your testimony that was just a
18 random sample of wires that you had picked to see coming
19 into an account?

20 A. A random sample, yes.

21 Q. And would you look, when you're doing your sampling and
22 looking at the wires, to see, for example, if you noticed
23 that there was a pattern, where most of the wires were
24 coming from?

25 A. Yes, it's possible.

1 Q. Let's go to page -- let's go to the last alert you did,
2 which is 85596, and it's page 72. Is this another alert
3 that you closed, Ms. Currie-Smotherman?

4 A. Yes.

5 Q. And if we turn to -- if we just go to the bottom of the
6 page and pull up the block, we can see that the incoming
7 wires for this alert were \$524 million. Do you see that?

8 A. Yes.

9 Q. And then if we go to page 73, we can see the outgoing
10 wires were for \$526 million. Do you see that?

11 A. Yes.

12 Q. And if we can bring them -- I'll bring them both
13 together for you so you can see it. And do you agree,
14 Ms. Currie-Smotherman, that the incoming wires for
15 \$524 million is a similar amount to the outgoing at
16 \$526 million?

17 A. Yes.

18 Q. And so your last alert we saw similar amounts of
19 billions of dollars going in and out, right?

20 A. Could you repeat it?

21 Q. Yeah. The last alert that we looked at, we saw that
22 there were similar amounts of billion -- \$1.7 billion going
23 in and \$1.7 billion going out, correct?

24 A. Yes.

25 Q. And now we have again here another similar amount of

1 half a billion dollars going in and out, right?

2 A. Yes.

3 Q. Do you agree that that could be indicative of a pattern
4 of activity?

5 A. That would be the customer's usual flow of activity,
6 yes.

7 Q. Would that be indicative of a pattern?

8 MS. PARLOVECCHIO: Objection, asked and answered.

9 THE COURT: Overruled.

10 THE WITNESS: Yes, it could be an example of a
11 pattern.

12 MR. COLLYARD: I have no further questions, Your
13 Honor.

14 Thank you, Ms. Currie-Smotherman.

15 THE COURT: Counsel, would you approach? I want
16 to address scheduling.

17 MS. PARLOVECCHIO: I'm sorry, Your Honor?

18 THE COURT: I asked you to approach. I want to
19 address scheduling.

20 MS. PARLOVECCHIO: Yes, Your Honor.

21 THE COURT: Members of the Jury, feel free to
22 stand up and stretch if you would like.

23 **(At sidebar)**

24 THE COURT: How much do you have for this witness?

25 We have ten minutes left for the day.

1 MS. PARLOVECCHIO: I probably have about 30 to
2 40 minutes, possibly a little more.

3 THE COURT: So we will take our recess now and
4 then she will come back tomorrow.

5 MS. PARLOVECCHIO: Okay. Thank you, Judge.

6 **(In open court)**

7 THE COURT: Members of the Jury, we are at a point
8 to take our evening recess, so I will give you my recess
9 instructions. Please remember and abide by them during this
10 recess, as with every other recess.

11 You must not discuss the case with anyone,
12 including the other jurors, members of your family, or
13 people involved in the trial or anyone else. And please do
14 not allow anyone to discuss the case within your hearing.

15 As you know, only you are selected and have been
16 chosen in this case to serve as jurors and only you have
17 been sworn to uphold the law. No one else can do this
18 important work.

19 Also, please remember, do not talk among
20 yourselves. Do not look at any news accounts, read any
21 newspapers or anything else, do any kind of research on your
22 own about this case.

23 And also, as you know, the reason why I give you
24 this instruction is because you must keep an open mind
25 that's free of outside information and only in this way will

1 you be able to decide the case fairly based solely on the
2 testimony that you've heard in this trial, the evidence
3 that's been presented in this courtroom, and the
4 instructions that I give you. It would be a violation of
5 your oath to base your decision on anything other than that.

6 And so it's important for you to follow these
7 instructions. I know that you have been and I know that you
8 will continue to do so. I'm simply reminding you of that.

9 And so we will plan to reconvene tomorrow at 8:30,
10 our usual time. Please come to the same location, and we'll
11 plan to begin promptly. I want to thank you for your
12 service, and I hope you have a good evening.

13 All rise for the jury. Not only do I want to
14 thank you, I thank you for your service.

15 (Jury excused)

16 **IN OPEN COURT**

17 **(JURY NOT PRESENT)**

18 THE COURT: Please be seated.

19 And to our witness, you are free to leave. Please
20 be prepared to come back to court tomorrow morning and to
21 resume your testimony. It is as if you are on the witness
22 stand, however, during the course of this evening. So
23 please do not discuss your testimony with anyone else during
24 this break.

25 THE WITNESS: Okay.

1 THE COURT: All right. Anything further that we
2 need to address at this time?

3 MR. ANTHONY: Your Honor, I have one thing. Joe
4 Anthony on behalf of Doug Kelley. Wednesday is Frank
5 Hermann's funeral.

6 THE COURT: Let me ask you if we can excuse this
7 witness.

8 MR. ANTHONY: Yes, you may.

9 THE COURT: So you are excused for the day.

10 (Witness excused)

11 THE COURT: And I understand that you would like
12 to address a scheduling issue.

13 MR. ANTHONY: Yes. Thank you, Your Honor.
14 Mr. Kelley would like to be excused to go to Frank Hermann's
15 funeral. Frank passed away recently and his funeral is
16 Wednesday morning at 10:00. I think it would be an hour or
17 so that Mr. Kelley would be absent. We wanted to alert the
18 Court to that and ask the Court's permission for him to be
19 excused for that modest amount of time.

20 THE COURT: Certainly. And it is just for that
21 period of time that there's the expectation or a longer
22 period of time?

23 MR. ANTHONY: Mr. Kelley says it may be a little
24 longer. He's capable of addressing the Court himself, Your
25 Honor.

1 THE COURT: Yes, Mr. Kelley.

2 MR. KELLEY: Ms. Hermann has asked me if I would
3 speak a little bit afterwards, so it would be longer than an
4 hour, but I expect to be back to the Court in the afternoon.
5 And I'm perfectly happy to have things go on without me
6 being here, Your Honor.

7 THE COURT: Okay. Certainly. And I will -- I
8 certainly understand that your time -- first of all, this is
9 an important reason for you not to be in the courtroom and a
10 sad reason, frankly. But you are excused for that period of
11 time. If it's possible that it is just the morning, that
12 would be ideal. However, I want you to take the time that
13 you need.

14 MR. KELLEY: Thank you, Your Honor.

15 THE COURT: You're welcome.

16 MR. MARDER: Your Honor, David Marder appearing
17 again. I just have one minor housekeeping matter.

18 There were two exhibits, P-178 and P-333, and
19 defendant's counsel has asked us to substitute those two
20 exhibits with P-178R and P-333R. Those are redacted
21 versions that have been where personal information, I think
22 it was Social Security numbers and the like, was excised.
23 So we're just going to replace those. We just wanted to
24 inform the Court before we replace those exhibits.

25 THE COURT: And the parties have agreed to --

1 MR. MARDER: We have agreed, yes.

2 THE COURT: Very well. Thank you for agreeing and
3 coming up with a good solution.

4 Anything further that we need to address at this
5 time?

6 Okay. Thank you, Counsel. Oh, I'm sorry. Is
7 there something else?

8 MR. GLEESON: I was just saying no.

9 THE COURT: Okay. Very well. Thank you. I
10 appreciate you standing to do so.

11 Thank you, Counsel. This will conclude our
12 session for today and we'll see everyone tomorrow.

13 COUNSEL: Thank you, Your Honor.

14 (Court adjourned at 4:59 p.m.)

15 * * *

16 I certify that the foregoing is a true and correct
17 copy of the transcript originally filed on 12/05/2022 and
18 incorporating redactions requested by Attorney Adine S.
Momoh.

19 Certified by: s/ Lori A. Simpson

20 Lori A. Simpson, RMR-CRR

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